

## **AGENDA**

### **Major Projects Committee**

**November 13, 2008**

**9:00 a.m.**

#### **Location:**

**SANBAG Offices**

***The Super Chief Room***

**1170 W. 3<sup>rd</sup> Street, 2<sup>nd</sup> Floor**

**San Bernardino, CA 92410**

#### **Major Projects Committee Membership**

##### **Chair**

John Pomierski, Mayor  
City of Upland

Dennis Yates, Mayor  
City of Chino

Rhodes "Dusty" Rigsby,  
Mayor Pro Tem  
City of Loma Linda

##### **Vice-Chair**

Grace Vargas, Mayor  
City of Rialto

Gwenn Norton-Perry, Council Member  
City of Chino Hills

Paul M. Eaton, Mayor  
City of Montclair

Paul Biane, Supervisor  
County of San Bernardino

Kelly Chastain, Mayor  
City of Colton

Paul Leon, Mayor  
City of Ontario

Dennis Hansberger, Supervisor  
County of San Bernardino

Mark Nuaimi, Mayor  
City of Fontana

Diane Williams, Council Member  
City of Rancho Cucamonga

Josie Gonzales, Supervisor  
County of San Bernardino

Bea Cortes, Council Member  
City of Grand Terrace

Pat Gilbreath, Mayor Pro Tem  
City of Redlands

Gary Ovitt, Supervisor  
County of San Bernardino

Larry McCallon, Council Member  
City of Highland

Pat Morris, Mayor  
City of San Bernardino

Richard Riddell, Mayor  
City of Yucaipa

*San Bernardino Associated Governments (SANBAG) is a council of governments formed in 1973 by joint powers agreement of the cities and the County of San Bernardino. SANBAG is governed by a Board of Directors consisting of a mayor or designated council member from each of the twenty-four cities in San Bernardino County and the five members of the San Bernardino County Board of Supervisors.*

*In addition to SANBAG, the composition of the SANBAG Board of Directors also serves as the governing board for several separate legal entities listed below:*

***The San Bernardino County Transportation Commission**, which is responsible for short and long range transportation planning within San Bernardino County, including coordination and approval of all public mass transit service, approval of all capital development projects for public transit and highway projects, and determination of staging and scheduling of construction relative to all transportation improvement projects in the Transportation Improvement Program.*

***The San Bernardino County Transportation Authority**, which is responsible for administration of the voter-approved half-cent transportation transactions and use tax levied in the County of San Bernardino.*

***The Service Authority for Freeway Emergencies**, which is responsible for the administration and operation of a motorist aid system of call boxes on State freeways and highways within San Bernardino County.*

***The Congestion Management Agency**, which analyzes the performance level of the regional transportation system in a manner which ensures consideration of the impacts from new development and promotes air quality through implementation of strategies in the adopted air quality plans.*

*As a **Subregional Planning Agency**, SANBAG represents the San Bernardino County subregion and assists the Southern California Association of Governments in carrying out its functions as the metropolitan planning organization. SANBAG performs studies and develops consensus relative to regional growth forecasts, regional transportation plans, and mobile source components of the air quality plans.*

*Items which appear on the monthly Board of Directors agenda are subjects of one or more of the listed legal authorities. For ease of understanding and timeliness, the agenda items for all of these entities are consolidated on one agenda. Documents contained in the agenda package are clearly marked with the appropriate legal entity.*

San Bernardino Associated Governments  
County Transportation Commission  
County Transportation Authority  
Service Authority for Freeway Emergencies  
County Congestion Management Agency

**Major Projects Committee**

**November 13, 2008**  
**9:00 a.m.**

**LOCATION:**  
**Santa Fe Depot**  
*The Super Chief Room*

**1170 W. 3<sup>rd</sup> Street, 2<sup>nd</sup> Floor, San Bernardino**

*CALL TO ORDER – 9:00 a.m.*  
*(Meeting chaired by Mayor John Pomierski.)*

- I. Attendance
- II. Announcements
- III. Agenda Notices/Modifications – Nessa Williams

**1. Possible Conflict of Interest Issues for the SANBAG Major Projects Meeting of November 13, 2008 Pg. 11**

Note agenda item contractors, subcontractors and agents which may require member abstentions due to conflict of interest and financial interests. Member abstentions shall be stated and recorded on the appropriate item in the minutes summary for each month.

**Consent Calendar**

Consent Calendar items shall be adopted by a single vote unless removed by Board member request. Items pulled from the consent calendar will be brought up at the end of the agenda.

**2. Major Projects Attendance Roster Pg. 15**

A quorum shall consist of a majority of the membership of each SANBAG Policy Committee, except that all County Representatives shall be counted as one for the purpose of establishing a quorum.

*Notes/Action*

### **Consent Calendar Cont...**

3. **Construction Change Orders to on-going SANBAG Construction Contracts with, Atkinson Contractors LP, Skanska USA Civil West California District, Inc., Republic Electric and Riverside Construction Co.** Pg. 19

Review and ratify change orders. **Garry Cohoe**

### **Discussion Calendar**

4. **2009 Major Projects Committee Meeting Schedule** Pg. 44

Approve the 2009 Major Projects Committee Meeting Schedule  
**Garry Cohoe**

**This item is scheduled for review by the Major Projects Committee on November 13, 2008**

5. **Freeway Construction Department Organization** Pg. 56

Conceptual approval of the Freeway Construction organizational structure as shown by Attachment "A". **Garry Cohoe**

**This item will be reviewed by the Major Projects Committee on November 13, 2008. The request for the two Program Manager positions will be reviewed by the Administration Committee in the near future.**

6. **Program Management Request for Qualifications** Pg. 59

Approve the circulation of the Request for Qualifications (RFQ) No. C09124 for Program Management services. **Garry Cohoe**

**This item will be reviewed by the Major Projects Committee on November 13, 2008. SANBAG counsel has reviewed and approved this agreement to form.**



7. **Contract No. C09085 to provide Construction Zone Enforcement (COZEEP) services for Freeway Construction Projects** Pg. 71

Approve Contract No. C09085 for COZEEP services with the California Highway Patrol (CHP) for the Major Freeway Projects being managed by SANBAG in the amount not to exceed \$1,000,000 with an agreement term to June 30, 2010. **Garry Cohoe**

**This item will be reviewed by the Major Projects Committee on November 13, 2008. SANBAG Counsel has reviewed and approved this amendment as to form. Finance has reviewed and approved the Contract Summary Sheet.**

8. **Contract No. C09-100 with DMJM+HARRIS, Inc. for construction engineering support on I-215, Segments 1 and 2** Pg. 79

Approve Sole Source Contract No. C09-100 with DMJM+HARRIS, Inc. for construction engineering support on I-215, Segments 1 and 2 in the amount of \$400,000 as detailed in the Financial Impact Section. TN 83809000 **Garry Cohoe**

**This item will be reviewed by the Major Projects Committee on November 13, 2008. This item has been reviewed by SANBAG Counsel.**

9. **Amendment No. 1 to Construction Cooperative Agreement No. 08-164 (District Agreement No. 8-1322) with Caltrans and the City of Rialto for Interstate 10/Riverside Avenue Interchange Project.** Pg. 144

Approve Amendment No. 1 to Cooperative Agreement No. 08-164 with Caltrans and the City of Rialto for the Interstate-10/Riverside Avenue Interchange Project construction activities. **Garry Cohoe**

**This item will be reviewed by the Major Projects Committee on November 13, 2008. SANBAG Counsel has reviewed and approved the agreement as to form.**

**10. Construction and Maintenance Agreements with Burlington Northern, Pg. 125  
Santa Fe Railroad (BNSF) and Caltrans for the Interstate 215 Segments  
1 and 2 Project**

1. Approve Agreement No. C09109 with BNSF and Caltrans to construct a new bridge over existing BNSF tracks at Ninth Street. TN 83810000.
2. Approve Agreement No. C09110 with BNSF and Caltrans to construct a new bridge over existing BNSF tracks at Baseline Street. TN 83810000.
3. Approve Agreement No. C09111 with BNSF and Caltrans to construct a new bridge over existing BNSF tracks at 16th Street. TN 83810000.

**This item will be reviewed by the Major Projects Committee on November 13, 2008. SANBAG Counsel has reviewed and approved the agreement as to form.**

**11. Design Cooperative Agreement Amendment No. A04-028-02 and Pg. 178  
C07-191-01 with Caltrans for the combined Connectors Project on  
SR-210 Segment 11 and Interstate 215 Segment 5 Project.**

1. Approve Amendment No. 2 to Contract No. A-04-028 with Caltrans for the combined Connectors Project on SR-210 Segment 11 and I-215 Segment 5 Project in the amount of \$217,000.00
2. Approve Amendment No. 1 to Contract No. C07-191 with Caltrans for the Connectors Project on SR-210 Segment 11 in the amount of \$291,000.00 **Garry Cohoe**

**This item will be reviewed by the Major Projects Committee on November 13, 2008. SANBAG Counsel has reviewed and approved the agreement as to form.**

**12. SR-210 Landscape Maintenance**

**Pg. 205**

Receive report on SR-210 landscape maintenance. **Garry Cohoe**

**This item will be reviewed by the Major Project Committee on November 13, 2008.**

**13. Final Accounting for SR-210 Right-of-Way Costs**

Pg. 207

- 1) Receive report on SR-210 final right-of-way capital expenditures totaling \$122,806,500
- 2) Acknowledge \$26,679,500 in expenditures over the programmed State Transportation Improvement Program (STIP) amount which will count against San Bernardino County's (STIP) share.
- 3) Direct staff to program the \$26,679,500 for repayment of expenditures over the next three STIP cycles, as authorized by the California Transportation Commission. **Garry Cohoe**

**This item will be reviewed by the Major Projects Committee on November 13, 2008.**

**14. Prioritization of Interchanges for the Measure I 2010-2040 Valley Freeway Interchange Program**

Pg. 210

1. Approve the recommended methodology for prioritizing interchanges for the Measure I 2010-2040 Valley Freeway Interchange Program, including the use of vehicle-hours of delay saved per million dollars in total interchange cost as the basis for setting priorities.
2. Approve the interchange priority list in Table 1 as the basis for implementation of Measure I 2010-2040 funding allocation policies for the Valley Freeway Interchange Program. **Steve Smith**

**This item will be reviewed by the Major Projects Committee on November 13, 2008.**

**15. Draft the Measure I 2010-2040 Strategic Plan**

Pg. 218

- 1) Receive information on the status of the Draft Measure I 2010-2040 Strategic Plan Report.
- 2) Direct staff to schedule a workshop with staff from Valley jurisdictions for purposes of discussing selected issues in the Strategic Plan draft prior to release of the full draft in early December 2008. **Steve Smith**

**This item will be reviewed by the Major Projects Committee on November 13, 2008.**

16. Additional Items from Committee Members
17. Brief Comments by General Public
18. Director's Comments
19. Acronym Listing

Pg. 240

**ADJOURNMENT**

The next Major Projects Committee  
Meeting is December 11, 2008

## Meeting Procedures and Rules of Conduct

### **Meeting Procedures**

The Ralph M. Brown Act is the state law which guarantees the public's right to attend and participate in meetings of local legislative bodies. These rules have been adopted by the Board of Directors in accordance with the Brown Act, Government Code 54950 et seq., and shall apply at all meetings of the Board of Directors and Policy Committees.

### **Accessibility**

The SANBAG meeting facility is accessible to persons with disabilities. If assistive listening devices or other auxiliary aids or services are needed in order to participate in the public meeting, requests should be made through the Clerk of the Board at least three (3) business days prior to the Board meeting. The Clerk's telephone number is (909) 884-8276 and office is located at 1170 W. 3<sup>rd</sup> Street, 2<sup>nd</sup> Floor, San Bernardino, CA.

**Agendas** – All agendas are posted at 1170 W. 3<sup>rd</sup> Street, 2<sup>nd</sup> Floor, San Bernardino at least 72 hours in advance of the meeting. Staff reports related to agenda items may be reviewed at the SANBAG offices located at 1170 W. 3<sup>rd</sup> Street, 2<sup>nd</sup> Floor, San Bernardino and our website: [www.sanbag.ca.gov](http://www.sanbag.ca.gov).

**Agenda Actions** – Items listed on both the "Consent Calendar" and "Items for Discussion" contain suggested actions. The Board of Directors will generally consider items in the order listed on the agenda. However, items may be considered in any order. New agenda items can be added and action taken by two-thirds vote of the Board of Directors.

**Closed Session Agenda Items** – Consideration of closed session items *excludes* members of the public. These items include issues related to personnel, pending litigation, labor negotiations and real estate negotiations. Prior to each closed session, the Chair will announce the subject matter of the closed session. If action is taken in closed session, the Chair may report the action to the public at the conclusion of the closed session.

**Public Testimony on an Item** – Members of the public are afforded an opportunity to speak on any listed item. Individuals wishing to address the Board of Directors or Policy Committee Members should complete a "Request to Speak" form, provided at the rear of the meeting room, and present it to the Clerk prior to the Board's consideration of the item. A "Request to Speak" form must be completed for *each* item an individual wishes to speak on. When recognized by the Chair, speakers should be prepared to step forward and announce their name and address for the record. In the interest of facilitating the business of the Board, speakers are limited to three (3) minutes on each item. Additionally, a twelve (12) minute limitation is established for the total amount of time any one individual may address the Board at any one meeting. The Chair or a majority of the Board may establish a different time limit as appropriate, and parties to agenda items shall not be subject to the time limitations.

The Consent Calendar is considered a single item, thus the three (3) minute rule applies. Consent Calendar items can be pulled at Board member request and will be brought up individually at the specified time in the agenda allowing further public comment on those items.

**Agenda Times** – The Board is concerned that discussion take place in a timely and efficient manner. Agendas may be prepared with estimated times for categorical areas and certain topics to be discussed. These times may vary according to the length of presentation and amount of resulting discussion on agenda items.

**Public Comment** – At the end of the agenda, an opportunity is also provided for members of the public to speak on any subject within the Board's authority. *Matters raised under "Public Comment" may not be acted upon at that meeting. "Public Testimony on any Item" still apply.*

**Disruptive Conduct** – If any meeting of the Board is willfully disrupted by a person or by a group of persons so as to render the orderly conduct of the meeting impossible, the Chair may recess the meeting or order the person, group or groups of person willfully disrupting the meeting to leave the meeting or to be removed from the meeting. Disruptive conduct includes addressing the Board without first being recognized, not addressing the subject before the Board, repetitiously addressing the same subject, failing to relinquish the podium when requested to do so, or otherwise preventing the Board from conducting its meeting in an orderly manner. *Please be aware that a NO SMOKING policy has been established for meetings. Your cooperation is appreciated!*

**SANBAG General Practices for Conducting Meetings  
of  
Board of Directors and Policy Committees**

**Basic Agenda Item Discussion.**

- The Chair announces the agenda item number and states the subject.
- The Chair calls upon the appropriate staff member or Board Member to report on the item.
- The Chair asks members of the Board/Committee if they have any questions or comments on the item. General discussion ensues.
- The Chair calls for public comment based on "Request to Speak" forms which may be submitted.
- Following public comment, the Chair announces that public comment is closed and asks if there is any further discussion by members of the Board/Committee.
- The Chair calls for a motion from members of the Board/Committee.
- Upon a motion, the Chair announces the name of the member who makes the motion. Motions require a second by a member of the Board/Committee. Upon a second, the Chair announces the name of the Member who made the second, and the vote is taken.

**The Vote as specified in the SANBAG Bylaws.**

- Each member of the Board of Directors shall have one vote. In the absence of the official representative, the alternate shall be entitled to vote. (Board of Directors only.)
- Voting may be either by voice or roll call vote. A roll call vote shall be conducted upon the demand of five official representatives present, or at the discretion of the presiding officer.

**Amendment or Substitute Motion.**

- Occasionally a Board Member offers a substitute motion before the vote on a previous motion. In instances where there is a motion and a second, the maker of the original motion is asked if he would like to amend his motion to include the substitution or withdraw the motion on the floor. If the maker of the original motion does not want to amend or withdraw, the substitute motion is not addressed until after a vote on the first motion.
- Occasionally, a motion dies for lack of a second.

**Call for the Question.**

- At times, a member of the Board/Committee may "Call for the Question."
- Upon a "Call for the Question," the Chair may order that the debate stop or may allow for limited further comment to provide clarity on the proceedings.
- Alternatively and at the Chair's discretion, the Chair may call for a vote of the Board/Committee to determine whether or not debate is stopped.
- The Chair re-states the motion before the Board/Committee and calls for the vote on the item.

**The Chair.**

- At all times, meetings are conducted in accordance with the Chair's direction.
- These general practices provide guidelines for orderly conduct.
- From time-to-time circumstances require deviation from general practice.
- Deviation from general practice is at the discretion of the Board/Committee Chair.

**Courtesy and Decorum.**

- These general practices provide for business of the Board/Committee to be conducted efficiently, fairly and with full participation.
- It is the responsibility of the Chair and Members to maintain common courtesy and decorum.

*Adopted By SANBAG Board of Directors January 2008*

- San Bernardino County Transportation Commission ■ San Bernardino County Transportation Authority  
■ San Bernardino County Congestion Management Agency ■ Service Authority for Freeway Emergencies

## *Minute Action*

### AGENDA ITEM 1

**Date:** November 13, 2008

**Subject:** Information Relative to Possible Conflict of Interest

**Recommendation\*:** Note agenda items and contractors/subcontractors, which may require member abstentions due to possible conflicts of interest.

**Background:** In accordance with California Government Code 84308, members of the SANBAG Board may not participate in any action concerning a contract where they have received a campaign contribution of more than \$250 in the prior twelve months from an entity or individual, except for the initial award of a competitively bid public works contract. This agenda contains recommendations for action relative to the following contractors:

Item No.	Contract No.	Principals & Agents	Subcontractors
3-A	05-014	Atkinson Contractors Scott Lynn Kent Reiman	All American Asphalt Modern Alloys Diversified Landscaping JV Land Clearing Valley Concrete Placing Coffman Specialties Alcorn Fence

\*

Approved  
Major Projects Committee

Date: November 13, 2008

Moved: Second:

In Favor: Opposed: Abstained:

Witnessed: \_\_\_\_\_

<b>Item No.</b>	<b>Contract No.</b>	<b>Principals &amp; Agents</b>	<b>Subcontractors</b>
3-A Cont...	05-014		Coral Construction Sudhakar Company Dywidag Systems Highlight Electric Regional Steel Anderson Drilling
3-B	06-001	Atkinson Contractors <i>Scott Lyon</i> <i>Kent Reiman</i>	West Coast Demo Penhall Moore Electric CGO Construction United Steel Placers Superior Gunite ACL Reycon Diversified Landscape Modern Alloys Statewide Safety Sudhakar Anderson Drilling DSI Ulmer Industries CTM Ortiz Asphalt Paving Alcorn Fence
3-C	06-056	Republic Electric <i>James A. Wagner, P.E.</i> <i>Vice President, Engineering</i>	Jones Backhoe Service, Inc. Fiberspan Communications
3-D	07-095	Atkinson Contractors, LP <i>Scott Lyon</i> <i>Kent Reiman</i>	Sudhakar Diversified Landscape Statewide Safety and Signs Alcorn Fence Coral Construction West Coast Welding



3-D Cont...	07-095		DSI Integrity Rebar CTM Construction Penhall VT Electric Ortiz Asphalt
3-E	C07110	Skanska USA Civil West District, Inc. <i>Alex Medyn</i> <i>Mark Hegbloom</i>	Alcorn Fence Co. Avar Construction Systems, Inc. Century Sweeping Crane Rental Service Drilltech Foundation Pile Inc. High Light Electric Marina Landscape Inc. Regional Steel Corp. RMD Sudhakar Company
3-F	C07174	Riverside Construction Co. <i>Dan Ennis</i>	A.C. Dike Alcorn Fence Co. American Steel Placer Avar Construction CTM Construction Foundation Pile Inc. Harber Companies High Light Electric Matich Corp. Pavement Recycling Sudhakar Company Ulmer Industries

8	C09-100	DMJM+Harris <i>Vic Martinez</i>	Lin & Nascimento Engineering (LAN) Associated Engineers Earth Mechanics Kleinfelder LIN Consultants STB Landscape
10	C09109	Burlington Northern Santa Fe Railroad (BNSF) <i>Melvin Thomas</i>	N/A
10	C09110	Burlington Northern Santa Fe Railroad (BNSF) <i>Melvin Thomas</i>	N/A
10	C09111	Burlington Northern Santa Fe Railroad (BNSF) <i>Melvin Thomas</i>	N/A

**Financial Impact:** This item has no direct impact on the SANBAG budget.

**Reviewed By:** This item is prepared monthly for review by SANBAG Board and Committee members.

**AGENDA ITEM 2**  
**MAJOR PROJECTS POLICY COMMITTEE ATTENDANCE RECORD – 2008**

Name	Jan	Feb	Mar	April	May	June	July	Aug	Sept	Oct	Nov	Dec
<b>Paul Eaton</b> City of Montclair	X	X		X	X		X	X		X		
<b>John Pomierski</b> City of Upland	X	X	X	X	X	X		X	X	X		
<b>Paul Biane</b> Board of Supervisors	X	X	X		X	X						
<b>Kelly Chastain</b> City of Colton	X	X	X	X	X		X	X	X	X		
<b>Robert Christman</b> City of Loma Linda	X	X	X	X	X	X						
<b>Rhodes "Dusty" Rigsby</b> City of Loma Linda												
<b>Bea Cortes</b> City of Grand Terrace	X	X	X	X	X	X		X	X	X		
<b>Pat Gilbreath</b> City of Redlands	X	X		X	X	X	X	X		X		
<b>Josie Gonzales</b> Board of Supervisors	X		X	X		X	X			X		
<b>Dennis Hansberger</b> Board of Supervisors		X	X	X		X	X		X	X		
<b>Larry McCallon</b> City of Highland		X	X		X		X		X	X		
<b>Patrick Morris</b> City of San Bernardino		X	X	X	X	X		X		X		
<b>Gwenn Norton-Perry</b> City of Chino Hills				X								
<b>Mark Nuaimi</b> City of Fontana	X	X	X	X	X	X	X	X	X	X		

X = Member attended meeting.  
mpcatt08.doc

\* = Alternate member attended meeting.

Empty box = Member did not attend meeting

Crossed out box = Not a member at the time.

**AGENDA ITEM 2**  
**MAJOR PROJECTS POLICY COMMITTEE ATTENDANCE RECORD – 2008**

Name	Jan	Feb	Mar	April	May	June	July	Aug	Sept	Oct	Nov	Dec
<b>Gary Ovitt</b> Board of Supervisors				X	X		X		X			
<b>Dick Riddell</b> City of Yucaipa	X	X	X	X	X	X	X	X		X		
<b>Grace Vargas</b> City of Rialto	X				X	X	X	X		X		
<b>Paul Leon</b> City of Ontario	X	X		X	X	X	X	X	X	X		
<b>Diane Williams</b> City of Rancho Cucamonga	X		X	X	X	X	X	X	X	X		
<b>Dennis Yates</b> City of Chino	X	X	X			X	X	X	X	X		

X = Member attended meeting.  
mpcatt08.doc

\* = Alternate member attended meeting.

Empty box = Member did not attend meeting

Crossed out box = Not a member at the time.

**AGENDA ITEM 2**  
**MAJOR PROJECTS POLICY COMMITTEE ATTENDANCE RECORD – 2007**

Name	Jan	Feb	Mar	April	May	June	July	Aug	Sept	Oct	Nov	Dec
<b>Paul Eaton</b> City of Montclair		X		X	CANCELLED	X	CANCELLED	X	X	X		CANCELLED
<b>John Pomierski</b> City of Upland	X	X		X		X		X	X	X	X	
<b>Paul Biane</b> Board of Supervisors	X	X	X					X	X			
<b>Kelly Chastain</b> City of Colton	X	X	X	X		X		X	*	X	X	
<b>Robert Christman</b> City of Loma Linda	X	X	X			X		X	X	X	X	
<b>Bea Cortes</b> City of Grand Terrace	X	X	X	X				X	X	X		
<b>Pat Gilbreath</b> City of Redlands	X	X	X	X		X		X	X	X	X	
<b>Josie Gonzales</b> Board of Supervisors	X			X								
<b>Dennis Hansberger</b> Board of Supervisors								X	X	X		
<b>Larry McCallon</b> City of Highland	X	X	X			X		X	X			
<b>Patrick Morris</b> City of San Bernardino	X	X	X	X		X		X		X	X	
<b>Gwenn Norton-Perry</b> City of Chino Hills		X						X				
<b>Mark Nuaimi</b> City of Fontana	X	X				X		X		X	X	
<b>Gary Ovitt</b> Board of Supervisors								X		X	X	

X = Member attended meeting.  
mpcatt07.doc

\* = Alternate member attended meeting.

Empty box = Member did not attend meeting

Crossed out box = Not a member at the time.

**AGENDA ITEM 2**  
**MAJOR PROJECTS POLICY COMMITTEE ATTENDANCE RECORD -- 2007**

Name	Jan	Feb	Mar	April	May	June	July	Aug	Sept	Oct	Nov	Dec
<b>Dick Riddell</b> City of Yucaipa	X	X		X	CANCELLED		CANCELLED	X	X	X	X	CANCELLED
<b>Grace Vargas</b> City of Rialto	X	X	X	X		X			X		X	
<b>Paul Leon</b> City of Ontario		X	X	X		X		X	X	X		
<b>Diane Williams</b> City of Rancho Cucamonga	X	X	X	X		X		X	X	X	X	
<b>Dennis Yates</b> City of Chino	X	X				X		X	X	X	X	

## *Minute Action*

AGENDA ITEM: 3

**Date:** November 13, 2008

**Subject:** Construction Change Orders to on-going SANBAG Construction Contracts with Atkinson Contractors, LP, Skanska USA Civil West California District, Inc., Republic Electric, and Riverside Construction Co.

**Recommendation:\*** Review and ratify change orders.

**Background:** Of SANBAG's fourteen on-going construction contracts, six of the contracts have had construction change orders (CCO's) approved since the last Major Projects Committee meeting. The CCO's are listed below:

- A. CN 05-014 with Atkinson Contractors, LP for construction of the SR-210 Segments 9/10/11 Mainline project: CCO No. 69, Supplement 2 (\$14,801.31 increase to provide an adjustment of compensation for fluctuations in the "California Statewide Paving Asphalt Price Index", resolving all administrative claim issues regarding compensation for all asphalt placements).
- B. CN 06-001 with Atkinson Contractors, LP for construction of the I-10 Median Mixed-Flow Lane project: CCO No. 10 (\$7,873.22 increase for costs incurred to salvage and deliver 414.6 linear meters of metal bridge railing to the Caltrans maintenance yard); CCO No. 24 (\$5,705.23 increase to change the size of rebar couplers and rebar extensions from #5 to #6, matching the existing rebar sizes at the Sixth Street, University Avenue, Palm Avenue and Highland Avenue under

---

*Approved*  
*Major Projects Committee*

*Date: November 13, 2008*

*Moved: Second:*

*In Favor: Opposed: Abstained:*

*Witnessed: \_\_\_\_\_*

crossings); CCO No. 47 (\$884.00 increase to provide an adjustment of compensation for under running the bid item cost for "Asphalt Concrete Dike (Type D)" by more than 25% of the Engineer's Estimated quantity); CCO No. 48 (\$2,909.40 decrease to provide an adjustment of compensation for overrunning the bid item cost for "Temporary Traffic Stripe (Paint)" by more than 25% of the Engineer's Estimated quantity); and CCO No. 49 (\$9,037.77 decrease to provide an adjustment of compensation for overrunning the bid item cost for "750mm Cast In Drilled Hole Concrete Piling" by more than 25% of the Engineer's Estimated quantity).

- C. CN 06-056 with Republic Electric for installation of the San Bernardino Valley Coordinated Traffic Signal System – Tier 2 project: CCO No. 15 (\$2,024.63 increase for extra work to trouble shoot and modify the existing interconnect system on Central Avenue and Monte Vista Avenue, in the City of Montclair); and CCO No. 16 (\$6,903.26 decrease for deleting a bid item to replace three radio modems, and for extra work to trouble shoot and modify the new interconnect system on Brookside Avenue and Orange Avenue, in the City of Redlands).
- D. CN 07-095 with Atkinson Contractors, LP for construction of the I-215 5<sup>th</sup> Street Overcrossing: CCO No. 1, Supplement 2 (\$10,000.00 increase for additional traffic control and extra work needed for public safety and convenience).
- E. CN C07110 with Skanska USA Civil West California District, Inc. for construction of the State Street/University Parkway Grade Separation project: CCO No. 5, Supplement 1 (\$11,141.37 to modify contract plans and relocate a 15" sewer line on State Street); CCO No. 13 (\$150,000.00 increase to provide an adjustment of compensation for the fluctuation in price of Asphalt Concrete, in accordance with the requirements listed in Section 5-1.21, "Compensation Adjustments for Price Index Fluctuations", of the Contract Special Provisions); and CCO No. 14 (\$5,000.00 for assisting SANBAG with signs and traffic control, for the Ribbon Cutting ceremony on August 29, 2008).
- F. CN C07174 with Riverside Construction Co. for construction of the I-10 Live Oak Canyon Road bridge project: CCO No. 14 (\$9,462.00 increase to remove the concrete curb and gutter at the eastbound off-ramp, perform additional grading, and replace with asphalt concrete and asphalt concrete dike); and CCO No. 17 (\$15,064.00 increase to provide permanent erosion control to finished slopes, that was not included in the contract documents).



***Financial Impact:*** This item imposes no financial impact, as all CCOs are within previously approved contingency amounts. TN 70109000, TN 82409000, TN 83809000, TN 84309000, TN 86009000 and TN 87109000.

***Reviewed By:*** This item will be reviewed by the Major Projects Committee on November 13, 2008.

***Responsible Staff:*** Garry Cohoe, Director of Freeway Construction

CCO NO.	DESCRIPTION (S) - With Supplemental \$	PAY MTD	TIME EXT.	CCO AMOUNT	%	TO DATE AMOUNT	CONTINGENCY BALANCE	R.E. SIGN.	CONTRACTOR TO FROM	CTFHWA Concurrence TO FROM	SANBAG Approval TO FROM	DATE APPROVED	STATUS/REMARKS
*CONTINGENCY & SUPPLEMENTAL WORK BUDGET >>> \$11,062,039.52													
1	MAINTAIN ROADWAY AND TRAFFIC CONTROL ...	EWFA	0	\$45,000.00				1/27/05	1/27/05	12/8/05	5/20/05	2/10/05	Approved & Implemented
(S)				\$45,000.00	0.05%	\$45,000.00	\$ 11,017,039.52		2/10/05	<< Approved Copies	2/10/05	2/10/05	Approved & Implemented
1	ADDITIONAL FUNDS FOR CCO 1	EWFA	0	\$45,000.00				6/24/05	n/a	n/a	6/30/05	7/6/05	Approved & Implemented
S1				\$45,000.00	0.05%	\$90,000.00	\$ 10,972,039.52		7/6/05	<< Approved Copies			Approved & Implemented
1	ADDITIONAL FUNDS FOR CCO 1	EWFA	0	\$100,000.00				10/12/05	11/8/05	N/A	10/12/05	10/12/05	Approved & Implemented
S2				\$100,000.00	0.10%	\$190,000.00	\$ 10,872,039.52		11/8/05	<< Approved Copies			Approved & Implemented
1	ADDITIONAL FUNDS FOR CCO 1	EWFA	0	\$115,000.00				3/30/06	N/A	N/A	4/5/06	4/5/06	Approved & Implemented
S3				\$115,000.00	0.12%	\$305,000.00	\$ 10,757,039.52		4/5/06	<< Approved Copies			Approved & Implemented
1	ADDITIONAL FUNDS FOR CCO 1	EWFA	0	\$130,000.00				11/1/06	N/A	N/A	11/3/06	11/7/06	Approved & Implemented
S4				\$130,000.00	0.13%	\$435,000.00	\$ 10,627,039.52		11/7/06	<< Approved Copies			Approved & Implemented
1	ADDITIONAL FUNDS FOR CCO 1 THRU 1-S4	EWFA	0	\$150,000.00				5/11/07	N/A	N/A	5/14/07	5/23/07	Approved & Implemented
S5				\$150,000.00	0.15%	\$585,000.00	\$ 10,477,039.52		5/23/07	<< Approved Copies			Approved & Implemented
1	ADDITIONAL FUNDS	EWFA	0	\$150,000.00				1/8/08	N/A	N/A	1/8/08	1/10/08	Approved & Implemented
S6				\$150,000.00	0.15%	\$735,000.00	\$ 10,327,039.52		1/10/08	<< Approved Copies			Approved & Implemented
2	MAINTAIN EXISTING AND TEMPORARY ELECTRICAL SYSTEM	EWFA	0	\$50,000.00				1/27/05	1/27/05	12/8/05	5/20/05	2/10/05	Approved & Implemented
S1				\$50,000.00	0.05%	\$785,000.00	\$ 10,277,039.52		2/10/05	<< Approved Copies			Approved & Implemented
2	ADDITIONAL FUNDS	EWFA	0	\$65,000.00				10/27/05	N/A	Follow Up Request	10/27/05	11/21/05	Approved & Implemented
S1				\$65,000.00	0.07%	\$850,000.00	\$ 10,212,039.52		11/21/05	<< Approved Copies			Approved & Implemented
2	ADDITIONAL FUNDS	EWFA	0	\$150,000.00				1/11/08	N/A	2/27/08	1/11/08	1/23/08	Approved & Implemented
S2				\$150,000.00	0.15%	\$1,000,000.00	\$ 10,062,039.52		1/23/08	<< Approved Copies			Approved & Implemented
3	FEDERAL APPRENTICESHIP TRAINING	ACUP	0	\$49,920.00				2/2/05	2/2/05	2/15/05	2/16/05	2/17/05	Approved & Implemented
(S)				\$49,920.00	0.05%	\$1,049,920.00	\$ 10,012,119.52		2/17/05	<< Approved Copies			Approved & Implemented
4	ACACIA CUL-DE-SAC	EWFA	0	\$5,000.00				3/4/05	3/16/05	3/22/05	3/22/05	3/28/05	Approved & Implemented
S1				\$33,149.00	0.04%	\$1,088,069.00	\$ 9,973,970.52		3/28/05	<< Approved Copies			Approved & Implemented
5	CUT, TRIM, REMOVE & DISPOSE OLEANDERS & MISC. SHRUBS ALONG ...	EWFA	0	\$35,000.00				2/7/05	2/7/05	2/8/05	2/16/05	2/17/05	Approved & Implemented
S1				\$35,000.00	0.04%	\$1,123,069.00	\$ 9,938,970.52		2/7/05	<< Approved Copies			Approved & Implemented
6	STRIPING PLANS FOR HIGHLAND DETOUR	EWFA	0	\$15,000.00				3/4/05	3/16/05	3/22/05	3/22/05	3/28/05	Approved & Implemented
S1				\$15,000.00	0.03%	\$1,192,069.00	\$ 9,869,970.52		3/28/05	<< Approved Copies			Approved & Implemented
7	REVISED PLAN SHEETS (CLARIFICATIONS)	NCNC	0	\$0.00				2/15/05	2/17/05	3/8/05	3/16/05	3/16/05	Approved & Implemented
				\$0.00	0.00%	\$1,192,069.00	\$ 9,869,970.52		3/16/05	<< Approved Copies			Approved & Implemented

**San Bernardino Associated Governments**  
**CONTRACT CHANGE ORDER and CONTINGENCY BALANCE LOG**

*(Updated: 10/22/2008)*

**SEGMENTS 9, 10, 11 MAINLINE**  
**Contract No. 05-014**

CCO NO.	DESCRIPTION (S) = With Supplemental \$	PAY MTD	TIME EXT.	CCO AMOUNT	%	TO DATE AMOUNT	CONTINGENCY BALANCE	R.E. SIGN.	CONTRACTOR TO FROM	CT/HWA Concurrence TO FROM	SANBAG Approval TO FROM	DATE APPROVED	STATUS/ REMARKS
8	MAN- MADE BURIED OBJECTS	EWFA	0	\$30,000.00				3/7/05	31605 3/22/05	5/20/05 3/28/05	3/28/05	3/29/05	Approved & Implemented
8 S1	ADDITIONAL FUNDS	EWFA	0	\$30,000.00	0.03%	\$1,222,069.00	\$ 9,839,970.52	5/25/05	N/A N/A	Follow Up Request 6/23/06 7/5/06	5/26/05	5/25/05	Approved & Implemented
8 S2	ADDITIONAL FUNDS	EWFA	0	\$45,000.00	0.05%	\$1,267,069.00	\$ 9,794,970.52	11/21/05	N/A N/A	Follow Up Request 6/23/06 7/5/06	11/29/05	11/29/05	Approved & Implemented
9	MAINTAIN UTILITY FACILITIES	EWFA	0	\$40,000.00	0.04%	\$1,307,069.00	\$ 9,754,970.52	3/7/05	31605 3/22/05	5/20/05 3/28/05	3/28/05	3/29/05	Approved & Implemented
9 S1	ADDITIONAL FUNDS	EWFA	0	\$30,000.00	0.03%	\$1,337,069.00	\$ 9,724,970.52	9/26/05	N/A N/A	Follow Up Request 6/23/06 7/5/06	9/26/05	9/28/05	Approved & Implemented
9 S2	ADDITIONAL FUNDS	EWFA	0	\$40,000.00	0.04%	\$1,377,069.00	\$ 9,684,970.52	7/18/06	N/A N/A	Follow Up Request 6/23/06 7/5/06	7/18/06	8/2/06	Approved & Implemented (Note: Rec'd from HL 10/2/06)
10	REMOVE TEMPORARY LIGHTING ALONG HIGHLAND	EWFA	0	\$45,000.00	0.05%	\$1,422,069.00	\$ 9,639,970.52	3/21/05	3/22/05 3/29/05	3/22/05 3/29/05	3/31/05	3/30/05	Approved & Implemented
11	GRAFFITI REMOVAL	EWFA	0	\$30,000.00	0.03%	\$1,452,069.00	\$ 9,609,970.52	3/31/05	3/31/05 4/1/05	4/4/05 4/4/05	4/4/05	4/5/05	Approved & Implemented
12	REVISED DRAINAGE PLANS - SEGMENT 11	ITEM	0	\$10,000.00	0.01%	\$1,462,069.00	\$ 9,599,970.52	4/7/05	4/11/05 5/6/05	4/11/05 5/16/05	5/18/05	5/18/05	Approved & Implemented
13	ADJUSTMENT TO VARIOUS ELECTRICAL BID ITEMS	ACLS	0	\$43,410.40	0.06%	\$1,525,479.40	\$ 9,536,560.12	8/9/06	8/11/06 Will Not Sign 4/10/07	8/11/06	8/4/06 8/4/06	4/16/07	Approved & Implemented (Processed Unilateral)
13 S1	ADDITIONAL ADJUSTMENT TO VARIOUS ELECTRICAL BID ITEMS (Oct. 2006 - Oct. 2007)	ACLS	0	\$64,108.06		\$1,531,263.53	\$ 9,530,775.99	10/22/07	4/16/07 10/25/07	1/7/08	10/22/07 1/10/08	1/10/08	Approved & Implemented
14	ADDITIONAL BNSF INSURANCE COVERAGE	ACLS	0	\$20,152.67	0.06%	\$1,595,371.59	\$ 9,466,667.93	5/27/05	1/10/08 6/3/05	6/5/05 6/5/05	7/6/05 7/6/05	7/6/05	Approved & Implemented
15	ELECTRICAL SERVICE CONNECTION FEES	EWFA	0	\$30,000.00	0.02%	\$1,615,524.26	\$ 9,446,515.26	5/3/05	5/3/05 5/6/05	5/6/05 5/6/05	5/18/05 5/18/05	5/18/05	Approved & Implemented
15 S1	ADDITIONAL FUNDS TO CCO 15 (ELECTRICAL SERVICE CONNECTION)	EWFA	0	\$150,000.00	0.03%	\$1,645,524.26	\$ 9,416,515.26	5/11/07	N/A N/A	5/14/07	5/16/07	5/15/07	Approved & Implemented
16	MODIFY VULCAN EAST DRIVEWAY	EWFA	0	\$15,000.00	0.15%	\$1,795,524.26	\$ 9,266,515.26	7/15/05	5/16/07 7/21/05	7/22/05 8/1/05	8/9/05 8/9/05	8/9/05	Approved & Implemented
16 S1	ADDITIONAL FUNDS	EWFA	0	\$15,000.00	0.02%	\$1,810,524.26	\$ 9,251,515.26	9/21/05	N/A N/A	6/23/06	9/26/05 9/26/05	9/26/05	Approved & Implemented
16 S2	ADDITIONAL FUNDS	EWFA	0	\$30,000.00	0.02%	\$1,825,524.26	\$ 9,226,515.26	12/7/05	N/A N/A	6/23/06	12/7/05 12/12/05	12/12/05	Approved & Implemented
				\$30,000.00	0.03%	\$1,855,524.26	\$ 9,206,515.26		12/13/05				

San Bernardino Associated Governments  
CONTRACT CHANGE ORDER and CONTINGENCY BALANCE LOG

(Updated: 10/22/2008)

CCO NO.	DESCRIPTION (S) = With Supplemental \$	PAY MTD	TIME EXT.	CCO AMOUNT	%	TO DATE AMOUNT	CONTINGENCY BALANCE	R.E. SIGN.	CONTRACTOR TO	FROM	TO	FROM	TO	FROM	TO	DATE APPROVED	STATUS/REMARKS
17	SWPPP MAINTENANCE SHARING (S)	EWFA	0	\$40,000.00				5/3/05	5/3/05	5/6/05	5/17/05	8/1/05	5/9/05	5/18/05		5/18/05	Approved & Implemented
17	ADDITIONAL FUNDS TO CCO 17 (SWPPP MAINTENANCE)	EWFA	0	\$40,000.00	0.04%	\$1,895,524.26	\$ 9,166,515.26	5/11/07	N/A	N/A	5/14/07		5/14/07	5/16/07		5/15/07	Approved & Implemented
18	REVISION TO N LINE PROFILE	NCNC	0	\$0.00	0.08%	\$1,975,524.26	\$ 9,086,515.26	5/17/05	5/16/07	6/1/05	5/26/05	8/1/05	6/1/05	6/3/05		6/2/05	Approved & Implemented
19	ILLICIT DUMPING	EWFA	0	\$0.00	0.00%	\$1,975,524.26	\$ 9,086,515.26	4/15/05	6/6/05	6/13/05	6/10/05	8/1/05	6/13/05	6/15/05		6/15/05	Approved & Implemented
19	ADDITIONAL FUNDS TO CCO 19 (ILLICIT DUMPING)	EWFA	0	\$60,000.00	0.03%	\$2,065,524.26	\$ 9,086,515.26	5/11/07	N/A	N/A	5/14/07		5/14/07	5/16/07		5/15/07	Approved & Implemented
20	AYALA PIPE EXTENSION	EWFA	0	\$15,000.00	0.06%	\$2,065,524.26	\$ 8,996,515.26	5/27/05	6/3/05	6/9/05	6/2/05	8/1/05	6/9/05	6/15/05		6/15/05	Approved & Implemented
21	SBFCDD MAINTENANCE TURN-AROUND- SEGMENT 9	EWFA	0	\$15,000.00	0.02%	\$2,080,524.26	\$ 8,981,515.26	7/14/05	6/16/05	7/15/05	7/15/05	8/1/05	7/22/05	7/26/05		7/26/05	Approved & Implemented
22	PROVIDE PEPPER AVE ACCESS - Segment 10	ITEM	0	\$11,331.36	0.02%	\$2,095,524.26	\$ 8,966,515.26	5/23/05	7/27/05	5/25/05	6/17/05	7/28/05	6/17/05	6/23/05		6/23/05	Approved & Implemented
22	ADDITIONAL FUNDS	EWFA	0	\$2,000.00	0.01%	\$2,106,855.62	\$ 8,955,183.90	8/18/05	7/11/05	8/22/05	8/31/05	9/8/05	9/8/05	9/19/05		9/18/05	Approved & Implemented
23	DRAINAGE DETAILS & INCREASED PIPE SIZES IN SEGMENT 9	ITEM	0	\$7,446.00	0.00%	\$2,108,855.62	\$ 8,953,183.90	8/18/05	9/19/05	9/9/05	9/30/05	9/9/05	9/43/05	12/6/05		12/6/05	Approved & Implemented
24	SEGMENT 11 DRAINAGE REVISION	ITEM	0	\$7,446.00	0.01%	\$2,116,301.62	\$ 8,945,737.90	12/5/05	12/6/05	12/6/05	12/6/05	12/14/05	12/16/05	1/9/06		1/9/06	Approved & Implemented
25	ADDITIONAL DRAINAGE WORK / MODIFY NEW & EXISTING DRAINAGE FACILITIES	EWFA	0	\$30,000.00	0.02%	\$2,131,654.42	\$ 8,930,385.10	6/16/05	7/16/05	6/17/05	6/30/05	6/28/05	7/5/05	7/6/05		7/6/05	Approved & Implemented
25	ADDITIONAL FUNDS	EWFA	0	\$115,000.00	0.03%	\$2,161,654.42	\$ 8,900,385.10	7/19/06	7/16/05	8/31/05	9/8/05	9/8/05	9/19/05	9/19/05		9/18/05	Approved & Implemented
25	ADDITIONAL FUNDS TO CCO 25 & CCO 25S1 (ADD'L DRAINAGE WORK)	EWFA	0	\$15,000.00	0.12%	\$2,276,654.42	\$ 8,785,385.10	5/11/07	N/A	N/A	6/5/07		5/14/07	6/11/07		6/11/07	Approved & Implemented
25	ADDITIONAL FUNDS	EWFA	0	\$150,000.00	0.15%	\$2,426,654.42	\$ 8,635,385.10	1/11/08	6/11/07	N/A	2/27/08		1/11/08	1/23/08		1/23/08	Approved & Implemented
26	MODIFICATIONS TO THE INTERSECTIONS OF LILAC/CASUALIA AND LILAC/TAHOE	EWFA	0	\$55,000.00	0.11%	\$2,536,654.42	\$ 8,525,385.10	10/28/05	1/23/08	11/22/05	11/22/05	12/1/05	12/7/05	12/7/05		12/7/05	Approved & Implemented
				\$55,000.00	0.06%	\$2,591,654.42	\$8,470,385.10		12/7/05	<< Approved Copies							

## CONTRACT CHANGE ORDER and CONTINGENCY BALANCE LOG

(Updated: 10/22/2008)

CCO NO.	DESCRIPTION (S) = With Supplemental \$	PAY MTD EXT.	TIME	OCO AMOUNT	%	TO DATE AMOUNT	CONTINGENCY BALANCE	R.E. SIGN.	CONTRACTOR TO FROM	CTF/HWA Concurrence TO FROM	SANBAG Approval TO FROM	DATE APPROVED	STATUS/ REMARKS
27	SBCFCD MAINTENANCE TURN-AROUND- SEGMENT 11	EWFA 0		\$10,000.00			2nd Issuance >>>	7/18/05	7/29/05	8/17/05	12/7/05	12/7/05	Approved & Implemented
				\$10,000.00	0.01%	\$2,601,654.42	\$ 8,460,385.10	12/1/05	12/1/05				
27 S1	ADDITIONAL FUNDS	EWFA 0		\$45,000.00				5/9/06	N/A			6/26/06	Approved & Implemented
				\$45,000.00	0.05%	\$2,646,654.42	\$ 8,415,385.10	12/4/06	6/26/06				
28	SEGMENT 10 BRIDGE WELDED STEEL CASING PAYMENT	EWLS 0		\$52,932.24				12/7/05	12/8/05	12/14/05	12/16/05	1/9/06	Approved & Implemented
				\$52,932.24	0.05%	\$2,699,586.66	\$ 8,362,452.86	4/7/06	5/3/06	4/14/06	4/13/06	5/9/06	Approved & Implemented
29	SEGMENT 10 EARLY PUNCHLIST ITEMS @ RIVERSIDE AND EASTON	EWFA ADJ 0		\$40,000.00				2/28/06	4/3/06	4/19/06	4/17/06	4/17/06	Approved & Implemented. CCO Transm-Revised per CT
				\$30,200.01	0.03%	\$2,729,786.67	\$ 8,332,252.85	4/17/06	4/17/06				
30	SEGMENT 9 & 10 EARLY SOUNDWALL COMPLETION	ITEM EWFA 0		\$26,897.40				8/15/05	9/14/05	10/4/05	10/7/05	10/7/05	Approved & Implemented
				\$146,897.40	0.15%	\$2,876,684.07	\$ 8,185,355.45	9/4/07	10/7/05	10/4/05	10/4/05	10/7/05	Approved & Implemented
31	MSE WALL CHANGE	ITEM ACLS	DEF	\$96,331.00			Revised Memo >>>	3/24/06	3/29/06	4/11/06	4/19/06	4/19/06	Approved & Implemented. Revised Trans - 05/2/06.
				\$21,238.00				9/4/07	10/1/07				
31 S1	MSE WALL ADDITIONAL CHANGES	ITEM EWFA EWUP	DEF	\$22,985.00	0.02%	\$2,974,762.07	\$ 8,087,277.45	3/24/06	3/29/06	4/11/06	4/19/06	4/19/06	Approved & Implemented
				\$58,499.35				Revised Transmittal Per CT >>>	4/19/06	6/22/06	6/30/06	7/14/06	Approved & Implemented. Closed with no work charged to CCO
32	SEG 10 EARLY PUNCHLIST: RELOC WWD & SBC UTILITIES @ RIVERSIDE AND GALWAY INTERS.	EWLS EWFA 0		\$5,000.00	0.06%	\$3,038,261.42	\$ 8,023,778.10	6/8/06	6/23/06	7/5/06	6/22/06	7/14/06	Approved & Implemented
				\$63,499.35				3/24/06	3/29/06	4/11/06	4/19/06	4/19/06	Approved & Implemented
32 S1	CONSTRUCT RETAINING WALL 1195 @ NW RIVERSIDE & GALWAY	EWFA 0		\$100,000.00				3/24/06	3/29/06	4/11/06	4/19/06	4/19/06	Approved & Implemented
				\$100,000.00	0.10%	\$3,138,261.42	\$ 7,923,778.10	6/8/06	6/23/06	7/5/06	6/22/06	7/14/06	Approved & Implemented
32 S2	INTERSECTION SIGNALIZATION & DRIVEWAY DESIGN	ITEM EWFA	DEF	\$45,250.00				3/24/06	3/29/06	4/11/06	4/19/06	4/19/06	Approved & Implemented
				\$50,000.00			Revised >>>	8/31/07	9/11/07	11/27/07	12/27/07	12/27/07	Approved & Implemented
32 S3	ADDITIONAL FUNDS	EWFA 0		\$150,000.00				3/3/08	N/A			3/6/08	Approved & Implemented
				\$150,000.00	0.15%	\$3,383,511.42	\$ 7,678,528.10	3/20/06	3/21/06	5/3/06	3/21/06	4/6/06	Approved & Implemented
33	REVISE FIBER OPTIC CONDUIT SYSTEM 103C IN SEGMENTS 9 & 11	ITEM ADJ 0		\$6,500.00				3/20/06	3/21/06	5/3/06	3/21/06	4/6/06	Approved & Implemented
				\$132,604.94				3/20/06	3/21/06	5/3/06	3/21/06	4/6/06	Approved & Implemented
34	DRAINAGE SYSTEM 5A ALIGNMENT MODIFICATION SEG 10	ITEM ACLS 0		\$139,104.94	0.14%	\$3,522,616.36	\$ 7,539,423.16	3/21/06	4/19/06	5/3/06	4/19/06	4/27/06	Approved & Implemented
				\$25,956.00				3/21/06	4/19/06	5/3/06	4/19/06	4/27/06	Approved & Implemented
				\$115,920.00				3/21/06	4/19/06	5/3/06	4/19/06	4/27/06	Approved & Implemented
35	ADD WB AUXILIARY LANE & SIGN STRUCTURE CHANGES	ACLS ITEM 0		\$5,177.34				3/27/06	3/29/06	4/6/06	4/6/06	4/6/06	Approved & Implemented
				\$22,691.00			2nd Original Copy >>>	1/10/07	1/31/07			2/5/07	Approved & Implemented
36	PARTIAL OPENING OF 210 FWY - SIERRA TO ADLER	EWFA 0		\$45,000.00	0.03%	\$3,692,360.70	\$ 7,369,678.82	9/15/05	9/16/05	9/22/05	9/22/05	9/26/05	Approved & Implemented
				\$45,000.00	0.05%	\$3,737,360.70	\$ 7,324,678.82	5/11/07	N/A			5/14/07	Approved & Implemented
36 S1	ADDITIONAL FUNDS TO CCO 36 (PARTIAL OPENING OF 210 AT SIERRA)	EWFA 0		\$30,000.00	0.03%	\$3,767,360.70	\$ 7,294,678.82	3/5/08	N/A			3/6/08	Approved & Implemented
				\$105,000.00				3/5/08	N/A			3/6/08	Approved & Implemented
36 S2	ADDITIONAL FUNDS	EWFA 0		\$105,000.00	0.11%	\$3,872,360.70	\$ 7,189,678.82	3/7/08	<< Approved Copies				Approved & Implemented

San Bernardino Associated Governments  
CONTRACT CHANGE ORDER and CONTINGENCY BALANCE LOG

(Updated: 10/22/2008)

CCO NO.	DESCRIPTION (S) = With Supplemental \$	PAY MTD	TIME EXT.	CCO AMOUNT	%	TO DATE AMOUNT	CONTINGENCY BALANCE	R.E. SIGN.	CONTRACTOR TO FROM	CIFHWA Concurrence TO FROM	SANBAG Approval TO FROM	DATE APPROVED	STATUS/ REMARKS
37	MBGR PER 2004 STANDARD SPECS	NCNC	0	\$0.00				1/3/06	1/19/06 4/3/06	1/19/06 1/27/06	1/19/06 4/3/06	4/5/06	Approved & Implemented
37 S1	MBGR ANCHOR BLOCK AT TRANSITION	EWFA	DEF	\$70,000.00	0.00%	\$3,872,360.70	\$ 7,189,678.82	5/10/07	4/5/06 5/14/07	5/14/07 5/14/07	5/14/07 6/18/07	6/18/07	Approved & Implemented
38	CACTUS STREET MODIFICATIONS	EWFA	0	\$20,000.00	0.07%	\$3,942,360.70	\$ 7,119,678.82	2/21/06	3/13/06 4/3/06	4/3/06 3/13/06	2/22/06 4/3/06	4/5/06	Approved & Implemented
38 S1	ADDITIONAL FUNDS	EWFA	0	\$40,000.00	0.08%	\$4,020,365.48	\$ 7,041,674.04	5/11/07	4/5/06 N/A	5/30/07 5/30/07	5/14/07 5/30/07	5/30/07	Approved & Implemented
39	PEDESTRIAN OPENINGS - 27TH & CALIFORNIA	ACLS	0	\$6,559.08	0.04%	\$4,060,365.48	\$ 7,001,674.04	10/19/05	10/25/05 11/14/05	10/25/05 10/25/05	10/19/05 11/21/05	11/21/05	Approved & Implemented
40	HIGHLAND / EASTON PROFILE REVISION	ITEM	0	\$4,547.58				11/15/05	11/17/06 2/17/06	11/17/05 11/20/05	11/17/05 11/20/05	2/28/06	Approved & Implemented
40 S1	CITY OF RIAL TO WATERLINE RELOCATION ON EASTON	EWLS	0	\$87,492.15	0.01%	\$4,076,472.14	\$ 6,985,567.38	3/17/06	3/23/06 5/3/06	3/27/06 4/6/06	3/23/06 5/9/06	5/8/06	Approved & Implemented
40 S2	FIRE DEPARTMENT BLOCK WALL AND IRRIGATION	EWFA	0	\$40,000.00	0.08%	\$4,163,964.29	\$ 6,898,075.23	8/22/06	N/A N/A	9/29/06 9/29/06	8/22/06 9/13/06	10/2/06	Approved & Implemented
41	INCLUDE FIBER OPTIC AS MOH	NCNC	0	\$0.00	0.00%	\$4,203,964.29	\$ 6,858,075.23	9/27/05	9/28/05 9/28/05	9/28/05 11/17/05	9/28/05 9/28/05	9/28/05	Approved & Implemented
42	DELETE PORTIONS OF IRRIGATION CROSSOVERS SEG 9 AND EDGE DRAIN SEG 10	ITEM	0	\$24,050.00				10/28/05	11/15/05 11/30/05	11/15/05 11/17/05	10/28/05 11/30/05	1/9/06	Approved & Implemented
43	CACTUS CHANNEL BASIN EROSION CONTROL FOR SBFCFD	EWAP	0	\$103,227.83	-0.02%	\$4,179,914.29	\$ 6,882,125.23	5/12/06	6/23/06 6/23/06	7/24/06 7/24/06	5/12/06 6/23/06	7/24/06	Approved & Implemented
44	DELETE QC/QA FOR ASPHALT CONCRETE	ACUP	0	\$74,103.15	0.10%	\$4,283,142.12	\$ 6,778,897.40	1/5/06	1/11/06 2/28/06	10/28/05 12/20/05	1/5/06 3/16/06	3/15/06	Approved & Implemented
45	SIGN STRUCTURE SPECS CHANGE	ITEM	0	\$137,597.10	-0.07%	\$4,209,038.97	\$ 6,853,000.55	11/28/06	12/4/06 12/4/06	12/4/06 12/4/06	11/29/06 12/4/06	3/21/06	Approved & Implemented
46	RETAINING WALL CONCRETE GUTTERS	ACUP	0	\$48,307.00				5/31/06	6/1/06 6/1/06	6/1/06 6/1/06	5/31/06 6/1/06	6/26/06	Approved & Implemented
47	REVISIONS TO DRAINAGE SYSTEM 7- SEG 9	EWFA	0	\$700,000.00	0.05%	\$4,989,485.87	\$ 6,072,553.65	7/17/06	10/19/06 12/1/06	7/17/06 12/1/06	10/19/06 12/1/06	12/4/07	Approved & Implemented
48	CAJON OH BENT 2 ALTERNATIVE PILE	ITEM	0	\$730,584.00	0.14%	\$5,720,069.87	\$ 5,341,969.65	3/7/06	3/8/06 4/25/06	3/8/06 3/8/06	3/7/06 4/25/06	5/3/06	Approved & Implemented
49	EXTEND EXISTING ADAMS ST. STORM DRAIN (OASIS) TO EAST OF UPRR RAILWAY	ITEM	0	\$22,308.00	0.02%	\$5,740,164.11	\$ 5,321,873.41	6/19/06	6/23/06 6/30/06	6/23/06 6/23/06	6/19/06 7/14/06	7/14/06	Approved & Implemented

CCO NO.	DESCRIPTION (S) = With Supplemental \$	PAY MTD EXT.	TIME	CCO AMOUNT	%	TO DATE AMOUNT	CONTINGENCY BALANCE	R.E. SIGN.	CONTRACTOR TO FROM	CIFHWA Concurrence TO FROM	SANBAG Approval TO FROM	DATE APPROVED	STATUS/ REMARKS
50	CACTUS W/ DITCH AND OUTLET STRUCTURE (CANCELED)	ITEM	0	\$0.00	0.00%	\$5,762,272.11	\$ 5,299,347.41		<< Approved Copies				CANCELED WORK TRANSFERRED TO HARDY 11
51	SLOPE PAVING - PEPPER, LILAC & 27TH	ITEM EWFA	0	\$165,976.00	0.00%	\$5,933,448.11	\$ 5,128,591.41	10/2/06 12/20/06	10/11/06 1/9/07	10/11/06 1/9/07	10/11/06 1/9/07	1/22/07	Approved & Implemented
52	LOCAL STREET SIGNS- METAL POSTS IN LIEU OF WOOD	ACUP	0	\$1,328.25	0.00%	\$5,934,776.36	\$ 5,127,263.16	6/1/06	<< Approved Copies	6/2/06	6/2/06	6/26/06	Approved & Implemented
53	SOUNDWALL MASONRY BLOCK SPEC CHANGE	NCNC	0	\$0.00	0.00%	\$5,934,776.36	\$ 5,127,263.16	5/11/06	<< Approved Copies	5/11/06	5/11/06	5/23/06	Approved & Implemented
53 S1	SOUNDWALL MASONRY BLOCK SPEC CHANGE ON BRIDGE STRUCTURES	NCNC	0	\$0.00	0.00%	\$5,934,776.36	\$ 5,127,263.16	8/2/06	<< Approved Copies	8/11/06	8/11/06	9/14/06	Approved & Implemented
54	PREPARE SLOPES @ CACTUS CHANNEL FOR EROSION CONTROL	EWAP	0	\$102,760.65	0.00%	\$5,934,776.36	\$ 5,127,263.16	5/25/06	<< Approved Copies	6/28/06	6/28/06	7/24/06	Approved & Implemented
55	SEG 9 REPAIR DRAINAGE FACILITY AT SW125N & SEG 10 DS-4F	ITEM ACLS	0	\$102,760.65	0.00%	\$6,037,537.01	\$ 5,024,502.51	6/23/06	<< Approved Copies	7/24/06	7/24/06	7/14/06	Approved & Implemented
56	ADJUST. FOR CONCRETE GUTTER IN EXCESS OF 125% EE (SEG 10 & 11)	ACUP ITEM	0	\$33,742.01	0.08%	\$6,121,279.02	\$ 4,940,760.50	6/19/06	<< Approved Copies	6/23/06	6/23/06	7/14/06	Approved & Implemented
57	MODIFY DRAINAGE @ LILAC/CASHMIA	ITEM EWFA	0	\$30,850.00	0.09%	\$6,211,864.02	\$ 4,850,175.50	12/29/06	<< Approved Copies	1/18/07	1/18/07	2/5/07	Approved & Implemented
57 S1	ADDITIONAL FUNDS	EWFA	0	\$75,000.00	0.12%	\$6,327,714.02	\$ 4,734,325.50	3/5/08	N/A		3/5/08	3/6/08	Approved & Implemented
58	RETAINING WALL, 150 BARRIER CLOSURE	EWLS	0	\$2,674.08	0.08%	\$6,402,714.02	\$ 4,659,325.50	6/16/06	<< Approved Copies	6/30/06	6/30/06	7/14/06	Approved & Implemented
59	BIO SWALES FOR BASINS NO. 4, NO. 6	ITEM EWFA	0	\$0.00	0.00%	\$6,405,388.10	\$ 4,656,651.42	8/20/07	<< Approved Copies	8/20/07	8/20/07		CANCELED WORK TRANSFERRED TO HARDY 11
60	ELIMINATE PCC DIKE AND SHOULDER BACKING IN SEGMENT 9	ITEM	0	\$82,208.00	0.00%	\$6,487,596.10	\$ 4,656,651.42	8/28/06	<< Approved Copies	9/20/06	9/20/06	4/10/07	Approved & Implemented
61	TEMPORARY TRAFFIC SIGNAL AT EASTON/HIGHLAND	EWFA ITEM	0	\$70,000.00	-0.08%	\$6,557,596.10	\$ 4,656,651.42	2/23/07	<< Approved Copies	4/6/07	4/6/07	4/10/07	Approved & Implemented
62	ELIMINATE EDGE DRAIN IN SEGMENT 10	ITEM ACLS	0	\$85,932.00	0.07%	\$6,643,528.10	\$ 4,668,583.42	9/5/06	<< Approved Copies	10/12/06	10/12/06	10/30/06	Approved & Implemented
63	INCREASE IN LCB CEMENT CONTENT	ACLS	0	\$142,145.26	-0.07%	\$6,785,673.36	\$ 4,711,041.94	5/8/07	<< Approved Copies	5/21/07	5/21/07	5/30/07	Approved & Implemented
64	ADD WORK FROM STATE STREET STORM DRAIN	EWFA EWUP	0	\$10,000.00	0.14%	\$6,795,673.36	\$ 4,598,896.68	6/21/07	<< Approved Copies	7/6/07	7/6/07	8/8/07	Approved & Implemented
		EWLS		\$1,042,122.36		\$7,837,795.72		11/30/06	<< Approved Copies	12/14/06	12/14/06	1/22/07	Approved & Implemented
				\$1,125,275.16	1.14%	\$7,963,070.88	\$ 3,469,621.52		<< Approved Copies				



**San Bernardino Associated Governments**  
**CONTRACT CHANGE ORDER and CONTINGENCY BALANCE LOG**

SEGMENTS 9, 10, 11 MAINLINE  
Contract No. 05-014

(Updated: 10/22/2008)

CCO NO.	DESCRIPTION (S) = With Supplemental \$	PAY MTD	TIME EXT.	OCO AMOUNT	%	TO DATE AMOUNT	CONTINGENCY BALANCE	R.E. SIGN.	CONTRACTOR TO	FROM	CIFHWA Concurrence TO	FROM	SANBAG Approval TO	FROM	DATE APPROVED	STATUS/ REMARKS
65	CONCRETE SPILLWAYS & PARKWAY CULVERTS (CANCELED)			\$0.00	0.00%	\$7,592,418.00	\$ 3,469,235.02	12/18/06	12/18/06	12/22/06	12/18/06		12/18/06	12/22/06	12/29/06	CANCELED Work Included on CCO No. 59
66	JUST IN TIME TRAINING (JITT)	EWLS	0	\$505.00					1/2/07	1/3/07	<< Approved Copies		12/18/06	12/22/06	12/29/06	Approved & Implemented
67	FURNISH STREET AND ROADSIDE SIGN PANELS	EWFA	0	\$7,500.00	0.00%	\$7,592,923.00	\$ 3,469,116.52	12/28/06	1/2/07	1/3/07	<< Approved Copies		12/18/06	12/22/06	4/10/07	Approved & Implemented
68	EASTON SQUARE APARTMENTS ALL WEATHER SURFACING	EWFA	0	\$35,000.00	0.01%	\$7,600,423.00	\$ 3,461,616.52	12/13/06	4/10/07	12/20/06	<< Approved Copies		12/18/06	12/22/06	12/29/06	Approved & Implemented
69	AC PRICE INDEX FLUCTUATION (Partial)	ACUP	0	\$308,893.17	0.04%	\$7,635,423.00	\$ 3,426,616.52	4/12/07	4/30/07	5/21/07	<< Approved Copies		12/18/06	12/22/06	9/19/07	Approved & Implemented - Unilateral Approval
69	AC PRICE INDEX FLUCTUATION (Complete)	ACUP	0	\$92,459.51		\$7,944,116.17	\$ 3,117,923.35	2/1/08	2/1/08	2/1/08	(REFUSED TO SIGN)	2/28/08	2/4/08	2/4/08	2/4/08	Approved & Implemented - Unilateral Approval
69	AC PRICE INDEX FLUCTUATION (Complete)	ACUP	0	\$14,801.31	0.09%	\$8,036,575.68	\$ 3,025,463.84		2/4/08	2/4/08	<< Approved Copies		2/4/08	2/4/08	10/7/08	Approved & Implemented - Unilateral Approval
70	SBCFCD PUNCH LIST METHACRYLATE	EWFA	0	\$75,000.00	0.01%	\$8,051,376.99	\$ 3,010,662.53	12/21/06	12/22/06	12/27/06	<< Approved Copies		12/18/06	12/22/06	12/29/06	Approved & Implemented
71	SSSD REVISIONS AT HIGHLAND/CALIFORNIA	ITEM EWFA EWAP	DEF	\$37,680.32 \$75,000.00 \$145,351.81	0.08%	\$8,126,376.99	\$ 2,935,662.53	4/16/07	4/24/07	5/21/07	<< Approved Copies		12/18/06	12/22/06	9/19/07	Approved & Implemented
71	ADDITIONAL FUNDS	EWFA	DEF	\$182,662.49	0.18%	\$8,309,039.48	\$ 2,753,000.04	10/25/07	N/A	9/19/07	<< Approved Copies		10/25/07	11/19/07	11/19/07	Approved & Implemented
71	ADDITIONAL FUNDS	EWFA	DEF	\$145,000.00	0.15%	\$8,454,039.48	\$ 2,608,000.04	1/14/08	11/19/07	N/A	<< Approved Copies		1/14/08	1/23/08	1/23/08	Approved & Implemented
71	TIME ADJUSTMENT	ADJ	117	\$150,000.00	0.15%	\$8,604,039.48	\$ 2,458,000.04	1/14/08	1/23/08	1/29/08	<< Approved Copies		1/14/08	1/22/08	2/3/08	Approved & Implemented
72	SEGMENT 10 BRIDGE SIGN ELIMINATION	ITEM EWFA	0	\$0.00 \$26,235.00 \$2,000.00	0.00%	\$8,604,039.48	\$ 2,458,000.04	12/21/06	2/4/08	1/15/07	<< Approved Copies		12/21/06	1/16/07	1/22/07	Approved & Implemented
73	MUSGOBY UNDERPASS TEMPORARY SUPPORT (CANCELED)	ACUP	DEF	\$24,235.00	-0.02%	\$8,579,804.48	\$ 2,482,235.04	1/24/07	1/29/07	2/9/07	<< Approved Copies		1/24/07	1/29/07		CANCELED Work Included on CCO No. 77
74	HUB BUILDING ENVIRONMENTAL CONTROLLER	ACLS	0	\$6,505.62				4/27/07	5/1/07	5/3/07	<< Approved Copies		4/27/07	5/16/07	5/16/07	Approved & Implemented
75	SEG 10, DS-8A AND 8E REVISIONS	ITEM	0	\$5,543.50	0.01%	\$8,586,310.10	\$ 2,475,729.42	3/16/07	3/20/07	3/20/07	<< Approved Copies		3/16/07	3/20/07	9/11/07	Approved & Implemented - Unilateral Approval
75				\$5,543.50	0.01%	\$8,591,853.60	\$ 2,470,185.92		9/12/07	<< Approved Copies						



**San Bernardino Associated Governments**  
**CONTRACT CHANGE ORDER AND CONTINGENCY BALANCE LOG**

*(Updated: 10/22/2008)*

**SEGMENTS 9, 10, 11 MAINLINE**  
**Contract No. 05-014**

COO NO.	DESCRIPTION (S) = With Supplemental \$	PAY MTD	TIME EXT.	COO AMOUNT	%	TO DATE AMOUNT	CONTINGENCY BALANCE	R.E. SIGN.	CONTRACTOR TO	FROM	TO	FROM	SANBAG Approval TO	FROM	DATE APPROVED	STATUS/REMARKS
76	ISL FIXTURES IN LIEU OF MERCURY VAPOR @ STATE ST UC (Seg.11 E) BR. MTD SIGNS	EWLS	DEF	\$1,317.15				3/8/07	3/12/07	3/24/07	3/12/07		3/8/07	3/12/07	3/27/07	Approved & Implemented
77	ELIMINATE MUSCOY UNDERPASS RETROFIT	ITEM	35	\$1,317.15	0.00%	\$8,593,170.75	\$ 2,468,868.77		3/28/07	<< Approved Copies			3/7/07	4/30/07	4/28/07	Approved & Implemented
78	INSTALL 103C ON MIRAMONTE UC	EWFA	DEF	\$594,300.00	-0.60%	\$7,998,870.75	\$ 3,063,168.77		4/30/07	<< Approved Copies			3/12/07	3/12/07	4/10/07	Approved & Implemented
79	SEGMENT 10, MBGR AT WB HIGHLAND OC APPROACH	ITEM EWFA	0	\$15,000.00				3/28/07	3/28/07	4/6/07	3/12/07		3/12/07	3/28/07	5/30/07	Approved & Implemented
80	GROUT ALL PULLBOXES	EWLS EWFA	DEF	\$15,000.00	0.02%	\$8,013,870.75	\$ 3,048,168.77		4/10/07	<< Approved Copies			3/29/07	3/29/07	4/10/07	Approved & Implemented
81	EARLY 11 PUNCHLIST ITEMS	NCNC	0	\$36,179.00				3/29/07	3/29/07	5/21/07	5/24/07		3/29/07	3/29/07	4/2/07	Approved & Implemented
81 S1	EARLY 11 BRIDGE PUNCHLIST ITEMS	EWLS	0	\$15,000.00	0.05%	\$8,065,049.75	\$ 2,996,989.77		5/30/07	<< Approved Copies			3/29/07	3/29/07	4/10/07	Approved & Implemented
82	FRISBEE PARK - ACACIA CUL-DE-SAC DRAINAGE MODIFICATIONS	EWFA	0	\$30,975.00				3/28/07	3/28/07	4/6/07	3/20/07		3/28/07	3/28/07	4/30/07	Approved & Implemented
83	COMPLETE I-210/ SIERRA INTERCHANGE & SOUNDWALL; REMOVE EASTON SILVER RAMP.	EWLS EWFA	DEF	\$2,000.00	0.03%	\$8,098,024.75	\$ 2,964,014.77		4/10/07	<< Approved Copies			3/26/07	3/26/07	4/4/07	Approved & Implemented
84	MUSCOY UNDERPASS ENGINEERING COSTS AND AC BLOCKOUTS	ITEM ADJ	0	\$10,000.00	0.01%	\$8,108,024.75	\$ 2,954,014.77		3/28/07	4/2/07	4/3/07		3/28/07	3/28/07	4/30/07	Approved & Implemented
85	SLOPE PAVING @ RIVERSIDE BRIDGE ABUTMENT NO.1	ITEM EWFA	0	\$25,000.00	0.00%	\$8,133,024.75	\$ 2,929,014.77		4/4/07	<< Approved Copies			4/26/07	4/26/07	5/29/07	Approved & Implemented
86	LILAC NORTH NEW WALLS	EWFA	DEF	\$44,384.23				4/26/07	4/30/07	5/18/07	4/30/07		4/26/07	4/26/07	6/18/07	Approved & Implemented
87	ELIMINATE FIBER OPTIC MAINTENANCE & OPERATIONS TRAINING	ITEM	0	\$305,000.00	0.35%	\$8,482,408.98	\$ 2,579,630.54		5/30/07	<< Approved Copies			5/21/07	5/21/07	6/18/07	Approved & Implemented
88	SEGMENT 11 FLAT WORK	EWFA	DEF	\$349,344.23	0.22%	\$8,702,255.15	\$ 2,359,784.37		8/27/07	8/31/07	8/27/07		8/24/07	8/24/07	9/19/07	Approved & Implemented
89	SUPPORT THE JUNE 23RD CELEBRATION	EWFA	0	\$10,564.00	0.09%	\$8,786,765.15	\$ 2,275,274.37		9/19/07	<< Approved Copies			8/24/07	8/24/07	9/19/07	Approved & Implemented
90	ADDITIONAL EQUIPMENT FOR HUBITOS CABINET AND ADDITIONAL SPLICING	ITEM	0	\$230,410.17	0.03%	\$8,818,765.15	\$ 2,243,274.37		5/9/07	5/9/07	5/21/07	5/9/07	5/9/07	5/9/07	6/11/07	Approved & Implemented
91	ELECTRONIC INTER-CONNECT MAGV STATE & STATE-GALIFORNIA (CANCELED)	EWFA	DEF	\$46,000.00	-0.05%	\$8,772,765.15	\$ 2,289,274.37		6/19/07	<< Approved Copies			6/11/07	6/11/07	7/2/07	Approved & Implemented
92		EWFA	DEF	\$20,000.00	0.02%	\$8,792,765.15	\$ 2,269,274.37		6/15/07	6/19/07	6/26/07	6/19/07	6/15/07	6/15/07	6/18/07	Approved & Implemented
93		EWFA	0	\$10,000.00	0.01%	\$8,802,765.15	\$ 2,259,274.37		7/10/07	<< Approved Copies			5/31/07	5/31/07	6/18/07	Approved & Implemented
94		ACLS	0	\$79,171.95	0.08%	\$8,881,937.10	\$ 2,180,102.42		6/19/07	<< Approved Copies			6/15/07	6/15/07	6/18/07	Approved & Implemented
95		EWFA	DEF	\$79,171.95	0.08%	\$8,961,109.05	\$ 2,100,102.42		6/19/07	<< Approved Copies			6/15/07	6/15/07	6/18/07	Approved & Implemented
96		EWFA	DEF	\$0.00	0.00%	\$8,961,109.05	\$ 2,100,102.42		6/19/07	<< Approved Copies			6/15/07	6/15/07	6/18/07	Approved & Implemented

[illegible]

**I-10 Median Mixed-Flow Lane Addition**  
**Contract No. 06-001**

**San Bernardino Associated Governments**

**CONTRACT CHANGE ORDER and CONTINGENCY BALANCE LOG**

*(Updated: 10/29/2008)*

CCO NO.	DESCRIPTION	PAY MTD	TIME EXT.	CCO AMOUNT	%	TO DATE AMOUNT	CONTINGENCY BALANCE	R.E. SIGN.	CONTRACTOR		CT		SANBAG Approval		DATE APPROVED	STATUS/REMARKS
									TO	FROM	TO	FROM	TO	FROM		
*CONTINGENCY & SUPPLEMENTAL WORK BUDGET >>>																
						\$3,619,846.00										
1	MAINTAIN ROADWAY AND TRAFFIC CONTROL ...	EWFA	0	\$35,000.00				11/09/05	11/10/05	11/28/05	11/10/05	12/02/05	12/07/05	01/18/06	Contract Bid Amount >>>	\$41,698,558.70
				\$35,000.00	0.08%	\$35,000.00	\$ 3,584,846.00			<< Approved Copies						Approved & Implemented
1S1	RESTRIPE I-10 EB (1-FT SHIFT) - MAINTAIN ROADWAY/TRAFFIC	EWLS	0	\$33,600.00				09/28/06	09/28/06	10/17/06	09/28/06	11/27/06	10/19/06	12/11/06		Approved & Implemented
				\$33,600.00	0.08%	\$68,600.00	\$ 3,551,246.00			<< Approved Copies						
1S2	ADDITIONAL FUNDS (CCO #1)	EWFA	0	\$25,000.00				02/01/07	02/14/07		02/08/07	02/13/07	02/08/07	02/14/07		Approved & Implemented
				\$25,000.00	0.06%	\$93,600.00	\$ 3,526,246.00			<< Approved Copies						
2	TRAINING	ACUP	0	\$8,800.00				11/09/05	11/10/05	12/29/05	11/10/05	12/02/05	12/07/05	01/18/06		Approved & Implemented
				\$8,800.00	0.02%	\$102,400.00	\$ 3,517,446.00			<< Approved Copies						
3	MAINTAIN EXISTING ELECTRICAL SYSTEMS	EWFA	0	\$10,000.00				11/09/05	11/10/05	11/28/05	11/10/05	12/02/05	12/07/05	01/18/06		Approved & Implemented
				\$10,000.00	0.02%	\$112,400.00	\$ 3,507,446.00			<< Approved Copies						
3S1	ADDITIONAL FUNDS	EWFA	0	\$20,000.00				05/18/06	05/23/06		05/18/06	05/15/06	05/18/06	05/23/06		Approved & Implemented
				\$20,000.00	0.05%	\$132,400.00	\$ 3,487,446.00			<< Approved Copies						
3S2	ADDITIONAL FUNDS	EWFA	0	\$20,000.00				04/29/08	05/08/08		04/29/08		04/29/08	05/07/08		Approved & Implemented
				\$20,000.00	0.05%	\$152,400.00	\$ 3,467,446.00			<< Approved Copies						
4	MAINTAIN EXISTING IRRIGATION SYSTEMS	EWFA	0	\$30,000.00				11/09/05	11/10/05	11/28/05	11/10/05	12/02/05	12/07/05	01/18/06		Approved & Implemented
				\$30,000.00	0.07%	\$182,400.00	\$ 3,437,446.00			<< Approved Copies						
4-S1	ADDITIONAL FUNDS	EWFA	0	\$30,000.00				05/18/06	05/23/06		05/18/06	05/30/06	05/18/06	05/23/06		Approved & Implemented
				\$30,000.00	0.07%	\$212,400.00	\$ 3,407,446.00			<< Approved Copies						
4-S2	ADDITIONAL FUNDS	EWFA	0	\$55,000.00				09/13/07	n/a	09/20/07	09/13/07	05/30/06	09/13/07	09/18/07		Approved & Implemented
				\$55,000.00	0.13%	\$267,400.00	\$ 3,352,446.00									
4-S3	ADDITIONAL FUNDS	EWFA		\$100,000.00												approved &
				\$100,000.00				04/28/08	05/08/08		04/28/08		04/28/08	05/07/08		
5	GRAFFITI REMOVAL	EWFA	0	\$10,000.00				11/09/05	11/10/05	11/28/05	11/10/05	12/02/05	12/07/05	01/18/06		Approved & Implemented
				\$10,000.00	0.02%	\$377,400.00	\$ 3,242,446.00			<< Approved Copies						
6	REVISED CL PROFILE	EWFA	0	\$10,000.00				02/13/06	02/13/06	02/21/06	02/13/06	02/20/06	03/01/06	04/04/06		Approved & Implemented
				\$10,000.00	0.02%	\$387,400.00	\$ 3,232,446.00			<< Approved Copies						
7	ADDITIONAL ABESTOS ABATEMENT (8 BRIDGES)	EWFA	0	\$12,000.00				11/21/05	11/21/05	11/28/05	11/21/05	12/01/05	02/16/06	03/01/06		Approved & Implemented
				\$12,000.00	0.03%	\$399,400.00	\$ 3,220,446.00			<< Approved Copies						
8	ENCROACHMENT PERMIT FEE	EWLS	0	\$5,350.00				11/30/05	12/02/05	12/08/05	12/02/05	04/04/06	02/16/06	03/01/06		Approved & Implemented
				\$5,350.00	0.01%	\$404,750.00	\$ 3,215,096.00			<< Approved Copies						

**San Bernardino Associated Governments**

**I-10 Median Mixed-Flow Lane Addition**

**CONTRACT CHANGE ORDER and CONTINGENCY BALANCE LOG**

*(Updated: 10/29/2008)*

**Contract No. 06-001**

CCO NO.	DESCRIPTION	PAY MTD	TIME EXT.	CCO AMOUNT	%	TO DATE AMOUNT	CONTINGENCY BALANCE	R.E. SIGN.	CONTRACTOR		CT	SANBAG Approval		DATE APPROVED	STATUS/REMARKS
									TO	FROM		TO	FROM		
9	LOW EXPANSION MATERIALS	ACLS	0	-\$85,093.00			Revised >> \$319,657.00 \$ 3,300,189.00	01/06/06	01/00/06	01/19/06	04/04/06	02/16/06	03/01/06	03/01/06	Approved & Implemented
10	SALVAGE BRIDGE RAILING (2000 LF)	ACLS	0	-\$85,093.00 \$7,873.22	-0.20%			09/08/08	09/08/08	10/02/08	09/08/08	10/02/08	10/07/08	10/07/08	Approved & Implemented
11	SALVAGE MBGR (Including THRIE BEAM) (Closed at NO COST)	ACLS	0	\$7,873.22 \$0.00	0.02%	\$327,530.22	\$ 3,292,315.78		10/07/08	<< Approved Copies					CLOSED at NO COST
12	SWPPP MAINTENANCE SHARING	EWTA	0	\$33,300.00	0.00%	\$327,530.22	\$ 3,292,315.78	01/10/06	01/10/06	01/19/06	04/04/06	02/16/06	03/01/06	03/01/06	Approved & Implemented
13	ELECTRICAL CHANGES BY CALTRANS	ACLS		\$33,300.00 \$6,323.10	0.06%	\$360,830.22	\$ 3,259,015.78	10/23/06	10/24/06	01/02/07	01/04/07	01/04/07	01/07/07	01/07/04	Approved & Implemented
14	ADDITIONAL CONCRETE REMOVAL - DSC	EWLS	0	\$6,323.10 \$7,630.00	0.02%	\$367,153.32	\$ 3,252,692.68	06/23/06	06/23/06	07/06/06	06/23/06	07/18/06	07/14/06	07/14/06	Approved & Implemented
15	ELECTRICAL & WATER METER SERVICE INSTALLATION & PERMIT FEES	ACLS EWLS	0	\$7,630.00 \$20,336.00 \$10,289.00	0.02%	\$374,783.32	\$ 3,245,062.68	04/19/06	04/16/06	04/21/06	04/16/06	03/20/06	05/02/06	05/04/06	Approved & Implemented
15S1	INSTALL ADDITIONAL CONDUIT CROSSING FOR IRRIGATION CONTROLLERS	EWUP		\$30,825.00 \$3,624.30	0.07%	\$405,408.32	\$ 3,214,437.68	10/31/06	10/31/06	02/20/07	02/13/07	10/30/06	02/13/07	02/20/07	Approved & Implemented
16	PIER WALL - TEMPORARY BRACING	ACLS	0	\$3,624.30 \$5,316.00	0.01%	\$409,032.62	\$ 3,210,813.38	04/14/06	04/14/06	04/18/06	04/14/06	04/20/06	05/02/06	05/04/06	Approved & Implemented
17	CITRUS ABUT FOOTING	ACLS	0	\$5,316.00 \$3,882.00	0.01%	\$414,348.62	\$ 3,205,497.38	05/11/06	05/11/06	05/18/06	05/11/06	03/08/06	05/19/06	05/23/06	Approved & Implemented
18	ANDERSON DRILLING - DIFFERING SITE CONDITIONS (Closed at NO COST)	ACLS	0	\$9,882.00 \$0.00	0.02%	\$424,230.62	\$ 3,195,615.38			<< Approved Copies					CLOSED at NO COST
19	CHURCH ST UC - FALSEWORK CHANGES	ACLS	0	\$0.00 \$4,000.00	0.00%	\$424,230.62	\$ 3,195,615.38	04/14/06	04/14/06	04/18/06	04/14/06	04/20/06	05/02/06	05/04/06	Approved & Implemented
20	"REVISED" STAGE 3 - TRAFFIC HANDLING PLANS (NO COST Change)	No Cost	0	\$4,000.00 \$0.00	0.01%	\$428,230.62	\$ 3,191,615.38	09/20/06	09/20/06	09/25/06	09/20/06	09/30/06	10/02/06	10/02/06	Approved & Implemented
21	TEMPORARY SUPPORTS DELETION	ACLS	0	\$0.00 -\$25,437.00	0.00%	\$428,230.62	\$ 3,191,615.38	10/20/06	10/20/06	10/31/06	10/31/06	10/31/06	10/31/06	11/09/06	Approved & Implemented
22	SUPPLEMENTAL LANDSCAPE MAINTENANCE (PE)	EWUP	0	-\$25,437.00 \$25,830.00	-0.06%	\$402,793.62	\$ 3,217,052.38	06/29/06 10/03/06	07/31/06 10/03/06	08/03/06 10/09/06	08/04/06 10/16/06	08/04/06 10/10/06	08/04/06 10/16/06	10/24/06	Approved & Implemented
				\$25,830.00	0.06%	\$428,623.62	\$ 3,191,222.38			<< Approved Copies					

## CONTRACT CHANGE ORDER and CONTINGENCY BALANCE LOG

Contract No. 06-001

(Updated: 10/29/2008)

CCO NO.	DESCRIPTION	PAY MTD	TIME EXT.	CCO AMOUNT	%	TO DATE AMOUNT	CONTINGENCY BALANCE	R.E. SIGN.	CONTRACTOR TO FROM	CT TO FROM	SANBAG Approval FROM TO	DATE APPROVED	STATUS/REMARKS
23	MISCELLANEOUS STRUCTURAL FIELD CHANGES	EWFA	0	\$10,000.00				08/10/06	08/10/06 08/21/06	08/10/06 08/22/06	09/14/06	09/04/06	Approved & Implemented
23S1				\$10,000.00	0.02%	\$438,623.62	\$ 3,181,222.38	04/17/07	<< Approved Copies				
23S2		EWFA	0	\$15,000.00				04/17/07	not requ 04/22/07	04/24/07	04/27/07	04/27/07	Approved & Implemented
		EWFA	0	\$15,000.00	0.04%	\$453,623.62	\$ 3,166,222.38	11/27/07	<< Approved Copies			11/27/07	Approved & Implemented
24	CHANGE TO #19 REBAR COUPLER FROM #16 REBARS AT CLOSURE POURS	ACLS	Def	\$20,000.00	0.05%	\$473,623.62	\$ 3,146,222.38	10/06/08	10/06/08 10/09/08		10/06/08 10/08/08	10/28/08	Approved & Implemented
25	MISC. PCC PAVING FIELD CHANGES	ITEMS	0	\$5,705.23	0.01%	\$479,328.85	\$ 3,140,517.15	04/23/07	<< Approved Copies			10/16/07	Approved & Implemented
		ACLS	0	-\$12,500.00									
		ACLS	0	\$5,857.81									
		EWFA	0	\$3,982.46									
		various		\$5,000.00									
26	CONFINED SPACE ENTRY - LOOKOUT PERSON	EWFA	0	\$2,340.27	0.01%	\$481,669.12	\$ 3,138,176.88	10/23/06	10/24/06 11/06/06	10/30/06 11/09/06	11/16/06	12/06/06	Approved & Implemented
27	SUBSTITUTE 75% min BUTT WELDS WITH MECHANICAL SERVICE SPLICES	ACLS	0	\$10,000.00	0.02%	\$491,669.12	\$ 3,128,176.88	10/23/06	<< Approved Copies			12/06/06	Approved & Implemented
				\$0.00									
28	JTT FOR PCC PAVING (50% shared cost excludes mark-ups)	EWFA	0	\$4,500.00	0.00%	\$491,669.12	\$ 3,128,176.88	11/28/06	<< Approved Copies			12/06/06	Approved & Implemented
				\$4,500.00	0.01%	\$496,169.12	\$ 3,123,676.88		<< Approved Copies				CLOSED at NO COST
29	STRUCTURE APPROACH SLAB MISC DETAIL REVISIONS	ACLS	0	\$0.00									
	(Closed at NO COST)			\$0.00	0.00%	\$496,169.12	\$ 3,123,676.88	07/27/07	<< Approved Copies			10/16/07	Approved & Implemented
30	SCE SERVICE FEES	EWFA	0	\$3,000.00									
31	MISC DRAINAGE CHANGES	EWFA	0	\$3,000.00	0.01%	\$499,169.12	\$ 3,120,676.88	05/11/07	<< Approved Copies			07/03/07	Approved & Implemented
				\$15,000.00									
		No Cost	0	\$15,000.00	0.04%	\$514,169.12	\$ 3,105,676.88	06/11/07	<< Approved Copies			07/03/07	Approved & Implemented
				\$0.00									
32	SOUNDWALL BLOCKS - WEIGHT LIMITATIONS	No Cost	0	\$0.00	0.00%	\$514,169.12	\$ 3,105,676.88	08/23/07	<< Approved Copies			09/04/07	Approved & Implemented
32S1				\$0.00									
33	BURIED MAN-MADE OBJECTS AND LOCATING FACILITIES	EWFA	0	\$20,000.00	0.00%	\$514,169.12	\$ 3,105,676.88	06/21/07	<< Approved Copies			07/03/07	Approved & Implemented
				\$20,000.00	0.05%	\$534,169.12	\$ 3,085,676.88		<< Approved Copies				

**I-10 Median Mixed-Flow Lane Addition**  
**Contract No. 06-001**

**San Bernardino Associated Governments**

**CONTRACT CHANGE ORDER and CONTINGENCY BALANCE LOG**

*(Updated: 10/29/2008)*

CCO NO.	DESCRIPTION	PAY MTD	TIME EXT.	CCO AMOUNT	%	TO DATE AMOUNT	CONTINGENCY BALANCE	R.E. SIGN.	CONTRACTOR TO FROM	CT TO FROM	SANBAG Approval TO FROM	DATE APPROVED	STATUS/REMARKS
34	ADD DS 36 AND OTHER DRAINAGE CHANGES	ITEM FA	0	\$24,549.00 \$10,000.00				08/07/07	08/07/07	08/07/07	09/18/07	08/18/07	Approved & Implemented
35	SW 168 DIFFERING SITE CONDITION	ACLS		\$34,549.00 \$124,818.64	0.08%	\$568,718.12	\$ 3,051,127.88		<< Approved Copies				In Process
36	REMOVE AND REPLACE D/S	ITEM	0	\$124,818.64 \$6,825.00	0.30%	\$693,536.76	\$ 2,926,309.24	04/11/08	04/11/08	04/11/08	04/28/08	04/28/08	
37	FACILITATE EARLY OPENING OF FREEWAY	ACTA ACLS	0	\$8,825.00 \$15,000.00 \$4,830.00	0.02%	\$702,361.76	\$ 2,917,484.24	11/02/07	11/02/07	11/02/07	11/07/07	11/07/07	Approved & Implemented
38	MBGR TRANSITION RAILING (TYPE WB) UPGRADE AT BRIDGE RAILING	EWFA	Def	\$19,830.00 \$25,000.00	0.05%	\$722,191.76	\$ 2,897,654.24	11/16/07	11/16/07	01/16/08	01/23/08	01/23/08	Approved & Implemented
38-S1	ADDITIONAL FUNDS	EWFA	0	\$25,000.00 \$30,000.00	0.05%	\$747,191.76	\$ 2,872,654.24	04/21/08	05/08/08	04/21/08	05/07/08	05/07/08	Approved & Implemented
39	ADDITIONAL JOINT SEAL AND REPAIR	ITEM EWFA	Def	\$30,000.00 \$46,500.00 \$10,000.00	0.07%	\$777,191.76	\$ 2,842,654.24	11/16/08	11/27/07	11/22/07	01/23/08	01/23/08	Approved & Implemented
39-S1	ADDITIONAL JOINT SEAL AND REPAIR	EWFA	Def	\$56,500.00 \$35,000.00	0.14%	\$833,691.76	\$ 2,786,154.24		<< Approved Copies				
40	EXISTING PAVEMENT REPAIR	EWFA	Def	\$35,000.00 \$50,000.00	0.08%	\$868,691.76	\$ 2,751,154.24		<< Approved Copies				
40-S1	EXISTING PAVEMENT REPAIR (ADDITIONAL FUNDS)	EWFA		\$50,000.00 \$40,000.00	0.12%	\$918,691.76	\$ 2,701,154.24		<< Approved Copies				
41	MODIFY EB LANE DROP TAPER	EWFA	Def	\$40,000.00 \$30,000.00		\$958,691.76	\$ 2,661,154.24	04/21/08	05/07/08	04/21/08	05/07/08	05/07/08	Approved & Implemented
42	ADJUSTMENT OF COMPENSATION FOR IRRIGATION MATERIALS	ACLS	0	\$30,000.00 \$1,709.62	0.07%	\$988,691.76	\$ 2,631,154.24	01/15/08	01/15/08	01/15/08	01/23/08	01/23/08	Approved & Implemented
43	EROSION CONTROL (TYPE D)	ACUP	Def	\$1,709.62 \$15,598.20		\$990,401.38	\$ 2,629,444.62		<< Approved Copies				
44		EWFA		\$15,598.20 \$65,000.00	0.04%	\$1,005,999.58	\$ 2,613,846.42	01/15/08	01/15/08	01/15/08	01/23/08	01/23/08	Approved & Implemented
44-S-1	ADDITIONAL SIGNS	No Cost		\$65,000.00 \$0.00	0.16%	\$1,070,999.58	\$ 2,564,444.62		<< Approved Copies				
45	CLOSEOUT OF VARIOUS DEFERRED TIME CCO'S	No Cost	43	\$0.00 \$0.00	0.00%	\$1,070,999.58	\$ 2,613,846.42	01/25/08	01/25/08	01/25/08	02/03/08	02/03/08	Approved & Implemented
				\$0.00	0.00%	\$1,070,999.58	\$ 2,613,846.42		<< Approved Copies				

(Updated: 10/29/2008)

**NOTES:** \* Includes Supplemental Funds & SANBAG Furnished Materials

## Tier 2

**NOTES:**

**NOTES:**

ITEM No.	\$ Overrun	\$ Balance
		\$ -
		\$ -
		\$ -
		\$ -



**NOTES:**

**San Bernardino Associated Governments**  
**CONTRACT CHANGE ORDER and CONTINGENCY BALANCE LOG**

**I-215 FIFTH ST OC**

**CONTRACT No. C07-095**

(Updated: 10/29/2008)

CCO NO.	DESCRIPTION	PAY MTD	TIME EXT.	CCO AMOUNT	%	TO DATE AMOUNT	CONTINGENCY BALANCE	R.E. SIGN.	CONTRACTOR		CT		SANBAG		DATE APPROVED	STATUS/REMARKS	
									TO	FROM	TO	FROM	TO	FROM			
*CONTINGENCY & SUPPLEMENTAL WORK BUDGET >>>																	
							\$1,858,324.55										
TRAFFIC CONTROL																	
1		EWFA	0	\$50,000.00		Billings Paid	Balance Remaining	02/12/07	02/12/07	02/12/07	02/15/07	02/17/07		02/15/07	02/20/07	02/20/07	Approved & Implemented
(S)						\$50,000.00	\$0.00				<< Approved Copies	(Email)					
1	TRAFFIC CONTROL - ADDITIONAL FUNDS	EWFA	0	\$50,000.00	0.30%	\$50,000.00	\$1,808,324.55	04/22/08	02/20/07	N/A	N/A	N/A	N/A	04/22/08	04/22/08	04/22/08	Approved & Implemented
(S)				\$25,000.00		\$23,801.43	\$1,198.57			N/A	<< Approved Copies	(Email)					
1	TRAFFIC CONTROL - ADDITIONAL FUNDS	EWFA	0	\$25,000.00	0.15%	\$75,000.00	\$1,783,324.55	10/28/08	N/A	N/A	N/A	N/A	N/A	10/28/08	10/28/08	10/29/08	Approved & Implemented
(S)				\$10,000.00		\$0.00	\$10,000.00			N/A	<< Approved Copies	(Email)					
2	SWPPP MAINTENANCE	EWFA	0	\$20,000.00	0.06%	\$85,000.00	\$1,773,324.55	03/13/07	03/13/07	03/20/07	03/20/07	03/13/07	03/19/07	03/09/07	03/12/07	03/12/07	Approved & Implemented
(S)				\$20,000.00		\$14,440.78	\$5,559.22			03/28/07	<< Approved Copies	(Email)					
3	MAINTAIN EXISTING ELECTRICAL	EWFA	0	\$25,000.00	0.12%	\$95,000.00	\$1,763,324.55	03/20/07	03/20/07	03/22/07	03/20/07	03/20/07	03/20/07	03/14/07	03/19/07	03/28/07	Approved & Implemented
(S)				\$25,000.00		\$25,000.00	\$0.00			03/28/07	<< Approved Copies	(Email)					
3	MAINTAIN EXISTING ELECTRICAL - ADDITIONAL FUNDS	EWFA	0	\$15,000.00	0.15%	\$120,000.00	\$1,738,324.55	05/22/08	03/28/07	N/A	N/A	N/A	N/A	05/22/08	05/01/07	05/27/08	Approved & Implemented
(S)				\$15,000.00		\$14,454.52	\$545.48			N/A	<< Approved Copies	(Email)					
4	UTILITY CONFLICTS	EWFA	0	\$25,000.00	0.09%	\$135,000.00	\$1,723,324.55	04/12/07	04/12/07	04/16/07	04/18/07	04/16/07	04/18/07	04/12/07	04/16/07	04/24/07	Approved & Implemented
(S)				\$25,000.00		\$25,000.00	\$0.00			04/24/07	<< Approved Copies	(Email)					
4	UTILITY CONFLICTS - ADDITIONAL FUNDS	EWFA	0	\$10,000.00	0.15%	\$160,000.00	\$1,713,324.55	01/28/08	01/28/08	N/A	N/A	N/A	N/A	01/28/08	01/28/08	01/28/08	Approved & Implemented
(S)				\$10,000.00		\$10,000.00	\$0.00			N/A	<< Approved Copies	(Email)					
4	UTILITY CONFLICTS - ADDITIONAL FUNDS	EWFA	0	\$10,000.00	0.06%	\$5,786.16	\$4,213.84	04/22/08	04/22/08	N/A	N/A	N/A	N/A	04/22/08	04/22/08	04/22/08	Approved & Implemented
(S)				\$10,000.00		\$180,000.00	\$1,693,324.55			N/A	<< Approved Copies	(Email)					
5	RETAINING WALL CHANGES - ABUTMENT 6 NORTH	ITEM	0	\$34,925.10	0.06%	\$34,925.10	\$0.00	11/28/07	11/28/07	11/28/07	12/03/07	11/21/07	11/21/07	11/28/07	12/05/07	12/05/07	Approved & Implemented
		EWFA		\$7,500.00		\$6,993.16	\$506.84										
		APLS		\$1,393.28		\$1,393.28	\$0.00										
		Adj. Comp.		\$584.61		\$584.61	\$0.00										
6	ANCHOR BOLT SPEC CHANGE	NCNC	0	\$0.00	-0.15%	\$154,552.79	\$1,718,771.76	09/12/07	09/12/07	09/12/07	09/17/07	09/12/07	(Email)	09/18/07	09/18/07	09/18/07	Approved & Implemented
				\$0.00		\$0.00	\$0.00										
7	LOWER DRAINAGE INLETS OF DS 4 & 6	EWFA	0	\$20,000.00	0.00%	\$154,552.79	\$1,718,771.76	10/02/07	10/02/07	10/02/07	10/03/07	10/02/07	10/03/07	10/03/07	10/03/07	10/03/07	Approved & Implemented
		ITEM		-\$7,000.00		-\$7,000.00	\$0.00										
		ITEM		\$3,000.00		\$3,000.00	\$0.00										
7	DRAINAGE RELOCATIONS - ADDITIONAL FUNDS	EWFA	0	\$16,000.00	0.10%	\$170,552.79	\$1,702,771.76	04/22/08	04/22/08	10/03/07	<< Approved Copies	(Email)					Approved & Implemented
(S)				\$15,000.00		\$4,224.30	\$10,775.70			N/A	N/A	N/A	N/A	04/22/08	04/22/08	04/22/08	Approved & Implemented
8	RETAINING WALL CHANGES - ABUTMENT 6 SOUTH	EWFA	0	\$5,000.00	0.09%	\$185,552.79	\$1,687,771.76	04/14/08	04/14/08	N/A	<< Approved Copies	(Email)					Approved & Implemented
		ITEM		-\$108,730.40		-\$108,730.40	\$0.00			04/15/08	04/21/08	02/29/08	02/29/08	04/22/08	04/22/08	04/22/08	Approved & Implemented
				-\$103,730.40	-0.62%	\$81,822.39	\$1,791,502.16			04/23/08	<< Approved Copies	(Email)					

**San Bernardino Associated Governments**  
**CONTRACT CHANGE ORDER and CONTINGENCY BALANCE LOG**

**(Updated: 10/29/2008)**

[illegible]

**\* Includes Supplemental Funds & SANBAG Furnished Materials**

SUMMARY OF OVERRUNS FOR ACTIVE ITEMS & CCO WORK						
ITEM NO.	\$ Overrun	\$ Balance	CCO NO.	\$ Overrun	\$ Balance	Total Overrun
		\$82,235.75				
2	\$220.00				\$0.00	\$82,235.75
5	\$2,600.00					
6	\$7,873.00					
8	\$7,000.00					
15	\$691.25					
17	\$2,164.00					
29	\$1,500.00					
39	\$29,475.00					
47	\$6,812.50					
64	\$1,700.00					
90	\$14,880.00					
92	\$120.00					
95	\$7,200.00					

(For use towards the job completion)

NO.	DESCRIPTION (S) = With Supplemental \$	PAY MTD	TIME EXT.	CCO AMOUNT	%	TO DATE AMOUNT	CONTINGENCY BALANCE	R.E. SIGN.	CONTRACTOR		CT / FHWA Concurrence		SANBAG Approval		DATE APPROVED	STATUS/ REMARKS
									TO	FROM	TO	FROM	TO	FROM		
*CONTINGENCY & SUPPLEMENTAL WORK BUDGET >>> \$1,690,771.00 Contract Bid Amount >> \$15,507,714.00																
1	MAINTAIN ROADWAY AND TRAFFIC CONTROL ...	EWFA	0	\$25,000.00				6/27/07	8/3/07	8/8/07	N/A	N/A	8/8/07		8/20/07	Approved & Implemented
				\$25,000.00	0.16%	\$25,000.00	\$ 1,665,771.00		9/11/07	<< Approved Copies						
1S1	MAINTAIN ROADWAY AND TRAFFIC CONTROL	EWFA	0	\$20,000.00				8/5/08	N/A	N/A	N/A	N/A	8/18/08		8/18/08	Approved & Implemented
				\$20,000.00	0.13%	\$20,000.00	\$ 1,645,771.00		9/11/07	<< Approved Copies						
2	PLAN MODIFICATIONS	EWFA/LS	0	\$57,162.80				10/1/07	10/1/07	10/25/07	N/A	N/A	10/25/07	11/20/07	11/20/07	Approved & Implemented
				\$57,162.80	0.37%	\$57,162.80	\$ 1,588,608.20		11/20/07	<< Approved Copies						
3	REMOVE ABANDON SEPTIC FACILITIES	EWFA	0	\$8,000.00				11/9/07	11/9/07	1/29/08	N/A	N/A	1/29/08		11/20/07	Approved & Implemented
				\$8,000.00	0.05%	\$8,000.00	\$ 1,580,608.20		11/20/07	<< Approved Copies						
4	MAINTAINING EXISTING FACILITIES	EWFA	0	\$25,000.00				11/16/07	11/16/07	11/20/08	N/A	N/A	11/20/07		11/20/07	Approved & Implemented
				\$25,000.00	0.16%	\$25,000.00	\$ 1,555,608.20		11/20/07	<< Approved Copies						
4S1	MAINTAINING EXISTING FACILITIES	EWFA	0	\$20,000.00				8/5/08	N/A	N/A	N/A	N/A	8/18/08		8/18/08	Approved & Implemented
				\$20,000.00	0.13%	\$20,000.00	\$ 1,535,608.20		11/20/07	<< Approved Copies						
5	RELOCATE CITY SEWER LINE	EWFA/LS	0	\$14,256.81				12/18/08	12/18/07	4/1/08	N/A	N/A	12/19/07		4/2/08	Approved by Steve Yench
				\$14,256.81	0.09%	\$14,256.81	\$ 1,521,351.39		4/2/08	<< Approved Copies						
5.1	RELOCATE CITY SEWER LINE - ADDITIONAL FUNDS	EWFA/LS	0	\$11,141.37				8/5/08	N/A	N/A	N/A	N/A	8/18/08		8/18/08	Approved & Implemented
				\$11,141.37	0.07%	\$11,141.37	\$ 1,510,210.02		4/10/08	<< Approved Copies						
6	REBAR INCREASED FROM #6 TO #8	EWFA/LS	0	\$35,147.00				3/18/08	4/1/08	4/1/08	N/A	N/A	4/1/08	4/2/08	4/2/08	Approved & Implemented
				\$35,147.00	0.23%	\$35,147.00	\$ 1,475,063.02		4/2/08	<< Approved Copies						
7	PLACE 4' WROUGHT IRON FENCE @ 2 RESIDENTIAL PROPERTIES	EWFA	0	\$26,650.75				5/14/08	5/14/08	5/14/08	N/A	N/A	5/15/08	5/23/08	5/23/08	Approved & Implemented
				\$26,650.75	0.17%	\$26,650.75	\$ 1,448,412.27		5/23/08	<< Approved Copies						
8	HILLWOOD/INTERCHANGE DRIVE OUT OF SEQUENCE WORK	EWFA/LS	0	\$36,978.76				6/5/08	6/10/08	8/1/08	N/A	N/A	8/13/08	8/18/08	8/17/08	Approved & Implemented
				\$36,978.76	0.24%	\$36,978.76	\$ 1,411,433.51		8/18/08	<< Approved Copies						
9	CONTRACTOR LOSS DUE TO IDLE EQUIPMENT BECAUSE OF UTILITY COMPANIES	EWFA/LS	0	\$12,000.05				6/18/08	6/18/08	6/25/08	N/A	N/A	6/25/08	6/25/08	7/3/08	Approved & Implemented
				\$12,000.05	0.08%	\$12,000.05	\$ 1,399,433.46		7/3/08	<< Approved Copies						
10	CONTRACTOR LOSSES DUE TO OVERHEAD COSTS DUE TO RR FAILURE TO CONSTRUCT SIGNAL PRIOR TO OCT 1, FOURTH QUARTER	EWFA/LS	0	\$110,267.45				6/25/08	6/25/08		N/A	N/A	6/30/08	7/14/08	7/14/08	Approved & Implemented
				\$110,267.45	0.71%	\$110,267.45	\$ 1,289,166.01		7/14/08	<< Approved Copies						
11	SANBAG REQUESTS WORK TO BE DONE AT AYALA/RTE 210	EWFA	0	\$30,000.00				7/14/08	8/5/08	8/6/08	N/A	N/A	8/6/08	8/18/08	8/18/08	Approved & Implemented
				\$30,000.00	0.19%	\$30,000.00	\$ 1,259,166.01		8/18/08	<< Approved Copies						
12	REVISED CATCH BASIN AT STATION 100+03 LT	EWFA/Item	0	\$21,066.48				7/14/08	8/5/08	8/6/08	N/A	N/A	8/6/08	8/18/08	8/18/08	Approved & Implemented
				\$21,066.48	0.14%	\$21,066.48	\$ 1,238,099.53		8/18/08	<< Approved Copies						

## STANDARD

### CONTRACT CHANGE ORDER and CONTINGENCY BALANCE LOG

**(Updated: 10/21/2008)**

41

## NOTES:

**\* Includes Supplemental Funds & SANBAG Furnished Materials**

10/21/2008

CCO NO.	DESCRIPTION (S) = With Supplemental \$	PAY MTD	TIME EXT.	CCO AMOUNT	%	TO DATE AMOUNT	CONTINGENCY BALANCE	R.E. SIGN.	CONTRACTOR TO FROM	CTFHWA Concurrence TO FROM	SANBAG Approval TO FROM	DATE APPROVED	STATUS/REMARKS
*CONTINGENCY & SUPPLEMENTAL WORK BUDGET >>>													
1	MAINTAIN ROADWAY AND TRAFFIC CONTROL ... (S)	EWFA	0	\$30,000.00				10/1/07	10/5/07	10/15/07	10/16/07	10/17/07	Approved & Implemented
2	DELETE SIGN STRUCTURE ITEMS 82 & 83	ITEM	0	\$30,000.00	0.28%	\$30,000.00	\$ 1,219,056.00	9/22/07	<< Approved Copies	10/15/07	9/22/07	10/17/07	Approved & Implemented
3	MAINTAIN ELECTRICAL SYSTEMS	EWFA	0	\$8,082.00	-0.08%	\$21,918.00	\$ 1,227,138.00	10/1/07	<< Approved Copies	10/15/07	10/16/07	10/17/07	Approved & Implemented
3-S1	ADDITIONAL FUNDS TO 'MAINTAIN ELECTRICAL SYSTEMS'	EWFA	0	\$15,000.00	0.14%	\$36,918.00	\$ 1,212,138.00	9/3/08	N/A		9/4/08	9/16/08	Approved & Implemented
4	BURIED MAN-MADE OBJECTS	EWFA	0	\$20,000.00	0.19%	\$56,918.00	\$ 1,192,138.00	3/10/08	<< Approved Copies	3/12/08	3/24/08	3/27/08	Approved & Implemented
5	RIGHT OF WAY OBLIGATIONS	EWFA	0	\$15,000.00	0.14%	\$71,918.00	\$ 1,177,138.00	6/6/08	<< Approved Copies	7/1/08	6/9/08	7/3/08	Approved & Implemented
6	RETAINING WALL 975 ELEVATION CHANGES & DRAINAGE.	ITEM BWLS	0	\$20,000.00		\$91,918.00	\$ 1,157,138.00	7/29/08	<< Approved Copies	7/14/08	8/4/08	8/18/08	Approved & Implemented
7	MISC DRAINAGE CHANGES	EWFA	0	\$3,705.00	0.03%	\$100,303.75	\$ 1,148,752.25	1/22/08	<< Approved Copies	8/18/08	2/11/08	2/20/08	Approved & Implemented
8	DRAINAGE SYSTEM 14 INLET TYPE CHANGE	ITEM	0	\$3,385.75	0.03%	\$110,303.75	\$ 1,138,752.25	6/16/08	<< Approved Copies	7/1/08	6/16/08	7/3/08	Approved & Implemented
9	ADD IRRIGATION CROSSEOVERS AND RAISED CONCRETE MEDIAN		0	\$1,115.00	0.01%	\$111,418.75	\$ 1,137,637.25		<< Approved Copies				IN PROCESS
10	RELOCATE THE EXISTING VIDEO DETECTION SYSTEM TO POLE "C" & SALVAGE POLE "G"	ACFA	0	\$0.00	0.00%	\$111,418.75	\$ 1,137,637.25	7/9/08			8/4/08	8/18/08	Approved & Implemented
11	ELECTRICAL SERVICE CONNECTION FEES	EWFA	0	\$15,000.00	0.14%	\$126,418.75	\$ 1,122,637.25	7/21/08	<< Approved Copies	8/18/08	7/24/08	8/18/08	Approved & Implemented
12	ANCHOR BLOCKS W/IB OFF/ON RAMPS	ITEM EWUP	0	\$20,000.00	0.19%	\$146,418.75	\$ 1,102,637.25	10/27/08	<< Approved Copies	8/18/08	10/17/08		
13	AC PRICE INDEX FLUCTUATIONS	ACUP	0	\$6,427.00	0.22%	\$169,342.00	\$ 1,079,714.00	8/20/08	<< Approved Copies	8/25/08	8/25/08	8/28/08	Approved & Implemented
14	EB OFF RAMP ROCK BLANKET	EWFA ITEM	0	\$22,923.25	0.94%	\$269,342.00	\$ 979,714.00	9/30/08	<< Approved Copies	10/13/08	9/29/08	10/15/08	Approved & Implemented
15	EB OFF RAMP TERMINI AND CURB ELEVATION CHANGES	ITEM	0	\$4,000.00	0.09%	\$278,804.00	\$ 970,252.00	10/21/08	<< Approved Copies				
				\$5,462.00		\$293,909.00	\$ 955,147.00		<< Approved Copies				
				\$15,105.00	0.14%								

NOTES:

11

- San Bernardino County Transportation Commission ■ San Bernardino County Transportation Authority  
 ■ San Bernardino County Congestion Management Agency ■ Service Authority for Freeway Emergencies

## *Minute Action*

AGENDA ITEM: 4

**Date:** November 13, 2008

**Subject:** 2009 Major Projects Committee Meeting Schedule

**Recommendation:**\* Approve the 2009 Major Projects Committee Meeting Schedule

**Background:** The SANBAG Major Projects Committee has established a regular meeting schedule on the second Thursday following the SANBAG Board meeting, beginning at 9:00 a.m., in the Super Chief Room at the Sante Fe Depot. Although a monthly schedule is adopted, it is acknowledged that when there are not sufficient business items to require a meeting, the meeting will be cancelled. It has also been the practice to modify the meeting location or time when it appears that a quorum will not be present. SANBAG staff, however, has been directed to make every effort to minimize deviation from the regular schedule to insure continuity of meetings and participation. A proposed 2009 meeting schedule is identified below for approval. Committee members and staff are urged to calendar these meetings for the coming year. Advance confirmation of meetings or cancellation notices are part of SANBAG's standard procedure for meeting preparation. The proposed 2009 meeting schedule does conform to the second Thursday following the SANBAG Board meeting, and is as follows:

January 15, 2008	May 14, 2008	September 10, 2008
February 12, 2008	June 11, 2008	October 15, 2008
March 12, 2008	July 9, 2008	November 12, 2008
April 19, 2008	August 13, 2008	December 10, 2008

*Approved*  
*Major Projects Committee*

*Date:* November 13, 2008

*Moved:* *Second:*

*In Favor:* *Opposed:* *Abstained:*

*Witnessed:* \_\_\_\_\_



***Financial Impact:*** Approval of the regular meeting schedule has no impact upon the SANBAG budget. Activities to support the Major Projects Committee meetings are in the approved SANBAG budget in Task No. 81508000, Measure I Program Management and Project Development.

***Reviewed By:*** This item is scheduled for review by the Major Projects Committee on November 13, 2008

***Responsible Staff:*** Garry Cohoe, Director of Freeway Construction

# January 2009

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
				1	2	3
4	5	6	7 Board	8	9	10
11	12	13	14 Admin.	15 Major Projects	16 Mt/Desert	17
18	19 MLK Holiday	20	21 Plans and Programs	22 Commuter Rail	23	24
25	26	27	28	29	30	31

# February 2009

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
1	2	3	4 Board	5	6	7
8	9	10	11 Admin	12 Major Projects	13	14
15	16 President's Day	17	18 Plans/Programs	19	20 Mt/Desert	21
22	23	24	25	26	27	28

# March 2009

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
1	2	3	4 Board	5	6	7 NACO Legisl.
8	9	10	11 Admin	12 Major Projects	13	14
NACO Legisl. Conf.	NACO Legisl. Conf.	NACO Legisl. Conf.	NACO Legisl. Conf.			
15	16	17	18 Plans and Programs	19 Commuter Rail	20 Mt/Desert	21
22	23	24	25	26 City/County Conf.	27 City/County Conf.	28
29	30	31				

# April 2009

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
			1 Board	2	3	4
5	6	7	8 Admin.	9 Major Projects	10	11
12	13	14	15 Plans/Programs League Legislative ActionDays	16 League Legislative ActionDays	17 Mt/Desert	18
19	20	21	22	23	24	25
26	27	28	29	30		

# May 2009

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
					1	2
3	4	5	6 Board	7	8	9
10	11	12	13 Admin.	14 Major Projects	15 Mt/Desert	16
17	18	19	20 Plans/Programs	21 Commuter Rail	22	23
24	25 Memorial Day	26	27 League Mayors/Council Forum	28 League Mayors/Council Forum	29 League Mayors/Council Forum	30 League Mayors/Council Forum
31						

# June 2009

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
	1	2	3 Board	4	5	6
7	8	9	10 Admin	11 Major Projects	12	13
14	15	16	17 Plans/Programs	18	19 Mt/Desert	20
21	22	23	24	25	26	27
28	29	30				

# July 2009

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
			1 Board	2	3	4
5	6	7	8 Admin	9 Major Projects	10	11
12	13	14	15 Plans/Programs	16 Commuter Rail	17 Mt/Desert	18
19	20	21	22	23	24	25
26	27	28	29	30	31	
NACO Annual Conf.	NACO Annual Conf.	NACO Annual Conf.			NACO Annual Conf.	NACO Annual Conf.



# August 2009

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
						1
2	3	4	5 Board	6	7	8
9	10	11	12 Admin	13 Major Projects	14	15
16	17	18	19 Plan/Programs	20	21 Mt/Desert	22
23	24	25	26	27	28	29
30	31					

# September 2009

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
		1	2 Board	3	4	5
6	7 Labor Day	8	9 Admin.	10 Major Projects	11	12
13	14	15	16 Plans/Programs	17 Commuter Rail	18 Mt/Desert	19
20	21	22	23 League Annual Conf.	24 League Annual Conf.	25 League Annual Conf.	26
27	28	29	30			

# October 2009

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
				1	2	3
4	5	6	7 Board	8	9	10
11	12	13	14 Admin.	15 Major Projects	16 Mt/Desert	17
18	19	20	21 Plans and Programs	22	23	24
25	26	27	28	29	30	31

# November 2009

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
1	2	3	4 Board	5	6	7
8	9	10	11 Veteran's Day	12 Major Projects	13	14
15	16	17	18 Admin. (11:00 a.m.) Plans / Programs	19 Commuter Rail	20 Mt/Desert	21
22	23	24	25	26	27	28
29	30			Thanksgiving	Thanksgiving	

# December 2009

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
		1	2 Board	3	4	5
6	7	8	9 Admin.	10 Major Projects	11	12
13	14	15	16 Plans/ Programs	17	18 Mt/Desert	19
20	21	22	23	24	25	26
				Christmas Eve	Christmas	
27	28	29	30	31	January 1, 2010	
				New Year's Eve	New Year's Day	

- San Bernardino County Transportation Commission ■ San Bernardino County Transportation Authority  
■ San Bernardino County Congestion Management Agency ■ Service Authority for Freeway Emergencies

## *Minute Action*

AGENDA ITEM: 5

**Date:** November 13, 2008

**Subject:** Freeway Construction Department Organization

**Recommendation:**\* Conceptual approval of the Freeway Construction organizational structure as shown by Attachment "A".

**Background:** A review of the Freeway Construction organization was conducted in conjunction with developing the scope of work for the re-compete of the Program Management contract, as the two are inter-related. In determining the organization, a decision on the number of resources that will be SANBAG employees versus the number of consultant employees needed to be determined, as well as the role of each party. In reaching this decision the goal is to have an organization that is efficient, can successfully deliver the program, and meets the needs of SANBAG. A couple of the main criteria that need to be met are ensuring SANBAG is providing clear direction for the program and is well represented when meeting with external parties, in particular other agencies, while having the flexibility to adjust staff resources when the workload changes.

This recommendation is made after studying the existing organization for the eight months I have been here and meeting with our sister agencies to gain an understanding of their organization. We have developed a proposed organizational structure that meets the goals and criteria stated above. As shown by the attached organization chart, the addition of two SANBAG staff Program Managers are proposed. The intent would be to fill these positions with very experienced, senior personnel. The Program Managers will be an integral part of the Freeway Construction team and will be responsible for the delivery of a

\*

*Approved*  
*Major Projects Committee*

*Date:* November 13, 2008

*Moved:* *Second:*

*In Favor:* *Opposed:* *Abstained:*

*Witnessed:* \_\_\_\_\_

number of projects; provide direction to the Project Managers and to the project delivery team; represent SANBAG when meeting with other agencies and outside parties; ensure that SANBAG's interests are well represented; assist in implementing the vision of SANBAG. In addition, having these management position filled with SANBAG employees will allow permanent staff members to develop a broader institutional knowledge of SANBAG, in particular the major projects program, and will allow more flexibility for succession in an interim or permanent duration.

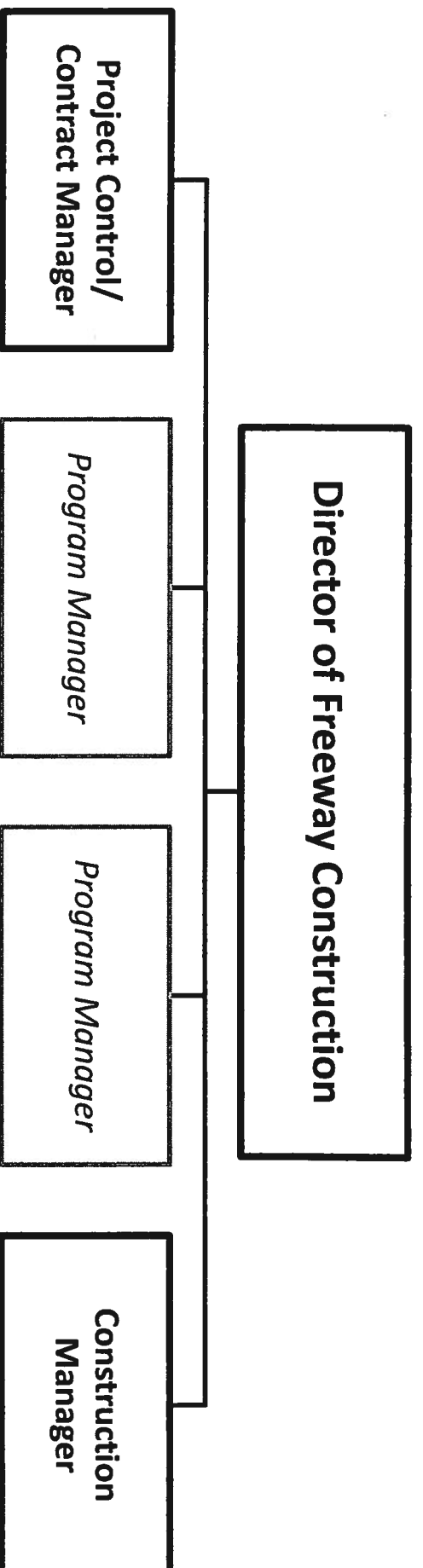
Consultant services will continue to be an important element of SANBAG's work effort. As shown by the attached organization chart, it is recommended that the remainder of the work effort be provided by consultants. The Project Managers and the Project Control/Contract Management staff would be assigned on a more permanent basis. The remainder of the positions listed will be utilized on an as needed basis.

With these two new and existing management positions, and the successful consultant on board, the due diligence required to successfully deliver the capital program can be met and the project delivery process can be taken to a new level.

***Financial Impact:*** The subject action will not have any financial impact. The approval of the proposed two new positions will be considered by the Administrative Committee at a future meeting, with the recommendation of Major Projects Committee, at which time the financial impact will be further defined. The financial impact of the new positions will be offset by a reduction in consultant staff required.

***Reviewed By:*** This item will be reviewed by the Major Projects Committee on November 13, 2008. The request for the two Program Manager positions will be reviewed by the Administration Committee in the near future.

***Responsible Staff:*** Garry Cohoe, Director of Freeway Construction



Consultant Resources		
<ul style="list-style-type: none"> <li>• Interim Program Managers</li> <li>• Project Manager</li> <li>• Assistant Project Manager</li> <li>• Project Control/ Contract Management               <ul style="list-style-type: none"> <li>◦ Scheduler</li> <li>◦ Estimator</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• QC/QA Auditor</li> <li>• Project Management Technical Specialist               <ul style="list-style-type: none"> <li>◦ Project Management Plan</li> <li>◦ Risk Management</li> </ul> </li> <li>• Environmental Specialist</li> <li>• Right of Way Specialist</li> </ul>	<ul style="list-style-type: none"> <li>• Construction Management               <ul style="list-style-type: none"> <li>◦ Claims Support</li> <li>◦ Constructability Review</li> </ul> </li> </ul>

**Bold = Positions approved in SANBAG Fiscal Year 2008/2009 Budget**  
*Italic = Proposed Positions*



- San Bernardino County Transportation Commission ■ San Bernardino County Transportation Authority  
■ San Bernardino County Congestion Management Agency ■ Service Authority for Freeway Emergencies

## *Minute Action*

AGENDA ITEM: 6

**Date:** November 13, 2008

**Subject:** Program Management Request for Qualifications

**Recommendation:\*** Approve the circulation of the Request for Qualifications (RFQ) No. C09124 for Program Management services.

**Background:** Fluor Daniel has been providing program management services to SANBAG for the implementation of the Measure I Major Projects program since 1991. With the end of the existing Measure and the commencement of the new Measure this is an opportune time to re-compete the program management services contract. The Fluor contract was recently extended to December 30, 2009 by Amendment No. 17 to ensure that there is adequate time to complete this critical procurement and, if necessary, the transition to the successful consultant.

A review of the Freeway Construction organization structure was conducted in conjunction with developing the scope of work for the re-compete of the Program Management contract, as the two are inter-related. The proposed organization structure will shift the overall program management to SANBAG staff.

Consultant services will continue to be an important element of SANBAG's program management effort. It is recommended that the remainder of the work effort be provided by consultants. The scope of work will require that the Program Management consultant provide Project Managers and Project Control/Contract Management staff that will serve as full-time SANBAG staff for all intents and purposes. In addition, the consultant will be required specialty services on as

\*

*Approved*  
*Major Projects Committee*

*Date:* November 13, 2008

*Moved:* *Second:*

*In Favor:* *Opposed:* *Abstained:*

*Witnessed:* \_\_\_\_\_

needed basis. The scope of services is attached. The contract duration is four years with the option, at SANBAG's discretion, to extend the contract.

***Financial Impact:*** Currently this item will have no impact to the current fiscal year budget. If a new consultant is given notice to proceed before the end of the current fiscal year it could impact the budget. This issue will be addressed when the consultant recommendation is brought forward.

***Reviewed By:*** This item will be reviewed by the Major Projects Committee on November 13, 2008. SANBAG counsel has reviewed and approved this agreement to form.

***Responsible Staff:*** Garry Cohoe, Director of Freeway Construction

San Bernardino County Transportation Authority

Request for Qualifications

For

Program Management and other Specialty Professional Services

**DRAFT**

For  
Various Projects in San Bernardino County  
Contract Number: C09124

Issued:

Key RFQ Dates:

Issued:	TBD
Proposals Due:	TBD
Shortlist Date:	TBD
Interview Date:	TBD

**SAN BERNARDINO COUNTY TRANSPORTATION AUTHORITY/  
SAN BERNARDINO ASSOCIATED GOVERNMENTS**

**REQUEST FOR QUALIFICATIONS**

**FOR**

**PROGRAM MANAGEMENT AND OTHER SPECIALITY SERVICES**

**I. INTRODUCTION**

The San Bernardino Associated Governments (SANBAG), acting as the San Bernardino County Transportation Authority is soliciting Statements of Qualifications from all qualified firms that may lead to the award of a contract for Program Management and other Specialty Services.

The purpose of this RFQ is to select a consultant to assist the Director of Freeway Construction in the delivery of the next Measure I program. The estimated contract term is approximately \_\_\_\_\_ years with an option at SANBAG's discretion to extend the contract. The contract will be awarded without discrimination based on race, religion, color, age sex, or national origin.

SANBAG's Major Projects Program includes Widening, Connector, Interchange, Grade Separation, and Landscape Projects in the San Bernardino County Valley. In general, projects are located on I-10, I-215, I-15, SR-210 and local streets with the projects progressing through various phases from environmental to construction. Ongoing projects include widening on I-10 in/near Yucaipa and Redlands, and widening on I-215 from SR 60/91/215 to University Avenue and I-10 HOV extension from Ontario to Redlands. Interchange projects on I-10 are planned for Cherry, Citrus, Live Oak, Riverside and Tippecanoe Avenues. Connector construction is planned at I-215/SR-210 and I-15/I-215. Interchanges on I-215 are planned for Barton Road and Mt. Vernon/Washington. Grades Separation projects are planned on various local streets including Colton Crossing, Hunts Lane, Main Street, Palm Avenue, Ramona Avenue, State/University and Valley Boulevard.

**II. SERVICES**

The focus of the contract is to provide as needed support to serve SANBAG in the capacity as corridor managers, project managers, construction managers, project controllers, assistant project managers, administrative assistants, Quality Control/Quality Assurance managers, schedulers, pre-construction photo surveyors and claims specialists.

### III. INSTRUCTIONS

#### A. Addenda

SANBAG changes to the requirements will be made by written addendum to this RFQ and posted on the SANBAG internet Site <http://www.sanbag.ca.gov/about/contracting.html>. No hard copies will be mailed. Any written addenda issued pertaining to this RFQ shall be incorporated into the terms and conditions of any resulting Agreement. SANBAG will not be bound to any modifications to or deviations from the requirements set forth in this RFQ as the result of oral instructions. Firm's shall acknowledge receipt of addenda in their SOQ's.

#### B. Questions and Responses

Questions concerning this RFQ may be addressed in writing or by telephone to the attention of \_\_\_\_\_ at:

**1170 W 3<sup>rd</sup> St, San Bernardino, CA 92410 or 909/8848276**

Questions shall be received by SANBAG no later than 5 pm on \_\_\_\_\_. Responses shall be posted on the SANBAG website at <http://www.sanbag.ca.gov/about/contracting.html>. Therefore periodic review of the website for responses and informational updates is mandatory.

#### C. Submittal of Qualifications (SOQ)

Firms interested shall submit one original Qualification and 8 copies at or before 2:00 pm on \_\_\_\_\_ to

**SANBAG**

**Attn:**

**RFQ Contract #**

**Project Management and other Specialist Services**

**1170 W 3<sup>rd</sup> St**

**San Bernardino, CA 92410**

#### D. Acceptance of Qualifications

SANBAG reserves the right to accept or reject any and all SOQs, or any item or part thereof, or to waive any informalities or irregularities in proposals. SANBAG reserves the right to withdraw or cancel this RFQ at any time without prior notice and SANBAG makes no representation that any contract will be awarded to any firm responding to this RFQ. SANBAG reserves the right to re-issue a new RFQ for the same or similar services. SANBAG reserves the right to postpone proposal openings for its own convenience. Proposals received by SANBAG

are public information and must be made available to any person upon request. Submitted proposals are not to be copyrighted.

E. Pre Contractual Expenses

SANBAG shall not, in any event, be liable for any pre-contractual expenses incurred by any firm in the preparation of its proposal. Firms shall not include any such expense as part of its proposal. Pre-contractual expenses are defined as expenses incurred by firm in preparing its proposal in response to this RFQ, submitting that proposal to SANBAG, negotiating with SANBAG any matter related to this proposal, or any other expense incurred by the firm prior to the date of award, in any, of the Agreement.

F. Joint Offers

Where two or more firms desire to submit a single proposal in response to this RFQ, they should do so on a prime-subcontractor basis rather than as a joint venture. SANBAG intends to contract with a single firm and not with multiple firms doing business as a joint venture.

G. Protest Procedures

Proposers may protest the recommended award made by SANBAG, provided the protest is in writing, contains the title of the RFQ, is delivered to SANBAG, and is submitted within (10) calendar days of the date the notification of intent to award by the SANBAG Board of Directors. Grounds for a protest are that SANBAG failed to follow the selection procedures and adhered to requirements specified in the RFQ or any addenda or amendments; there has been a violation of conflict of interest as provided by California Government Code Section 87100 et seq.; or there has been a violation of state or Federal law. Protests will not be accepted on any other grounds. In event of a protest, all protests will be handled by a panel designated by the SANBAG Executive Director, or his/her designee.

SANBAG will consider only those specific issues addressed in the written protest. A written response by SANBAG will be directed to the protesting Proposer within (14) calendar days of receipt of the protest.

H. Contract Type

It is anticipated that the Agreement resulting from this solicitation, if awarded, will be a time and expense specifying actual labor hours and anticipated expenses with a not to exceed value for services specified in the Scope of Work included in this RFQ.

I. Conflict of Interest

The selected consultant will not be prevented from participating in future projects to the extent that no direct conflict of interest exists at the time. Consultants responsible for the project management of a project may not participate in environmental, design or construction management/construction inspection of the project. The determination of a conflict of interest, direct or incidental, shall be at the sole discretion of SANBAG.

IV. PROPOSAL FORMAT AND CONTENT

A. Presentation

Proposals shall be typed with 12 pt font, double spaced and submitted on 8 ½ " x 11" size paper, using a single method of fastening. Charts and schedules may be included in 11" x 17" format. Unnecessarily elaborate or promotional material shall not be included. Lengthy narrative is discouraged, and presentations must be brief and concise with the proposal package not to exceed fifty (50) pages in length. The page limit does not include the outside cover, section dividers, cover letters and subconsultant commitment memorandum, or appendices. Proposals that do not contain the required information or do not contain the required number of copies (eight) will not be accepted.

B. Cover Letter

The Cover Letter shall be addressed to \_\_\_\_\_, and must, at a minimum, contain the following:

1. Identification of the firm that will have contractual responsibility with SANBAG. Identification shall include legal name of company, corporate address, telephone, and fax number. Include name, title, address, and telephone number of the contact person identified during period of proposal evaluation.
2. Identification of all proposed subcontractors including legal name of company, whether the firm is a Disadvantaged Business Enterprise (DBE), contact person's name and address, phone number and fax number. Identify the relationship between firm and subcontractors, if applicable. Include a summary description of the work to be performed by firm and each subconsultant firm proposed for the project and an estimate of the percentage of work to be performed by each firm.
3. Acknowledgment of receipt of all RFQ addenda, if any.

4. A statement to the effect that the proposal shall remain valid for a period of not less than 180 days from the date of submittal.
5. Signature of a person authorized to bind firm to the terms of the proposal.
6. Signed statement attesting that all information submitted with the proposal is true and correct.
7. In accordance with SANBAG Policy No. 11000-R10, Sect. 7.A.2.f, provide a response to the following question: Has your firm ever been terminated from a contract? If the answer is yes, describe the facts and circumstances in detail, on a separate sheet. See policy for details.

#### C. Technical Proposal Content

##### 1. Qualifications, Related Experience and References

This section of the proposal should establish the ability of the firm to satisfactorily perform the required work by reasons of: experience in performing work of the same or similar nature; demonstrated experience working with federal and local agencies and cities directly involved in transportation projects; strength and stability of the firm; staffing capability; work load; record of meeting schedules for local agencies and supportive client references. Specifically:

- a. Provide a brief profile of the firm, including the types of services offered; the year founded; form of the organization (corporation, partnership, sole proprietorship); number, size and location of offices; number of employees.
- b. Provide a general description of the firm's financial condition, identify any conditions (e.g., bankruptcy, pending litigation, planned office closures, impending merger) that may impede Firm's ability to compete for this contract.
- c. Describe the firm's experience in performing work of a similar nature to that solicited in this RFQ, and highlight the participation in such work by the key personnel proposed for assignment to this project. Including specialized experience and professional competence in areas directly related to the RFQ.
- d. Describe experience in working with the various government agencies that may have jurisdiction over the approval of the work specified in this RFQ. Please include



specialized experience and professional competence in areas directly related to this RFQ.

- e. Provide a list of past joint work by the firm and each subcontractor, if applicable. This list should clearly identify the project and provide a summary of the roles and responsibilities of each party.
- f. A minimum of three (3) references should be given for recent similar projects. Furnish the name, title, address, and telephone number of the person(s) at the client organization who is most knowledgeable about the work performed. Firm may also supply references from other work not cited in this section as related experience.

#### D. Proposed Staff and Project Organization

This section of the proposal should establish the method that will be used by the firm to manage the project as well as identify key personnel assigned and other project staff. Specifically:

1. Provide education, experience and applicable professional credentials of key project personnel.
2. Furnish brief resumes (not more than two [2] pages each) for the proposed Project Manager and other key personnel.
3. Identify key personnel proposed to perform the work in the specified tasks and include major areas of subcontract work. Include the person's name, current location, proposed position for this project, current assignment, level of commitment and availability for this assignment, and length of employment with the firm.
4. Include a project organization chart that clearly delineates communication/reporting relationships among the program and project management staff, including specialty and other subconsultants.
5. Provide a chart of key personnel, position/responsibility, and percent availability for assignment at SANBAG offices to perform in their assigned position. Include a statement that key personnel will be available to the extent proposed for the duration of the contract, acknowledging that no person designated as "key" to the project shall be removed or replaced without the prior written concurrence of SANBAG.

#### E. Work Plan

Firm shall provide a narrative that addresses the Scope of Work and demonstrates an understanding of SANBAG's needs and requirements:

1. Describe the approach and work plan for completing the tasks specified in the Scope of Work. The work plan shall be of such detail to demonstrate the firm's ability to accomplish program and project objectives.
2. Identify methods to be employed for ensuring quality control as well as budget and schedule control for the program.
3. Identify any special issues or problems that are likely to be encountered during this contract and how the firm would propose to address them.
4. Firm may propose enhancements or procedural or technical innovations to the Scope of Work that do not materially deviate from the objectives or required content of the program.

F. State any exceptions to or deviations from the requirements of this RFQ, segregating "technical" exceptions from "contractual" exceptions. Where firm wishes to propose alternative approaches to meeting SANBAG's technical or contractual requirements, these should be thoroughly explained. If no contractual exceptions are noted, firm will be deemed to have accepted the contract requirements as set forth in the Proposed Agreement.

#### G. Changes

During the selection process, any changes in key consultant or subconsultant personnel proposed in the SOQ must be brought to the attention of SANBAG immediately.

#### H. Comments

Provide a written discussion of any objections or concerns relative to the Terms and Conditions of SANBAG's contract. Please note that SANBAG reserves the right to disqualify any consultant that does not provide a complete written discussion of its contractual objections or to disqualify any consultant based on objections that SANBAG considers non-negotiable. SANBAG does not anticipate making substantive changes to its Terms and Conditions.

#### I. Cost Proposal

Firms are asked to submit only the technical qualifications as requested in this RFQ. **No cost proposal or work hours are to be included in this phase of the RFQ process.** Upon completion of the initial evaluations the shortlisted firms will be expected to submit a detailed cost proposal in a sealed envelope at the time of interview. Negotiations will commence based on both the cost and technical proposals. See L.

## J. Appendices

Information considered by Firm to be pertinent to this project and which has not been specifically solicited in any of the aforementioned sections may be placed in a separate appendix section. Firms are cautioned, however, that this does not constitute an invitation to submit large amounts of extraneous materials; appendices should be relevant and brief.

## K. Selection and Award

The primary objective of SANBAG is to select highly qualified firms to perform necessary professional services for SANBAG at a fair and reasonable cost. In addition, SANBAG has established the following criteria for the selection process:

1. The selection process shall be fair, open, and competitive.
2. The selection of the consultant firms will be based on clearly stated objectives.
3. Selection of private consultants/firms shall be based upon demonstrated competence, professional qualifications, experience, and capabilities to perform the required services at a fair and reasonable price to SANBAG, rather than competitive bidding process.
4. Upon review of the SOQs, a shortlist of firms will be invited to prepare for an interview. The pending contract will be awarded to the firm best conforming to the RFQ, and is in the opinion of SANBAG, most advantageous to SANBAG. SANBAG reserves the right to reject any and all SOQs and to negotiate with any firm. SANBAG is under no obligation to issue contracts for the subject services.

## L. Negotiations and Engagement

Each shortlisted firm will be expected to submit a cost proposal in a sealed envelope at the time of the interview. After the interviews, the firms will be rated and the top ranked firm will participate in contract negotiations with SANBAG staff.

The final contract and Scope of Services will be negotiated. Consultants are encouraged to include in their SOQ any comments relating to the Scope of Services and/or the terms and conditions of SANBAG's standard contract. In addition, Consultants are reminded that *any* comments regarding the Terms and Conditions of SANBAG's standard contract must be noted in the SOQ. SANBAG reserves the right to disqualify any firm that does not provide written discussions of any disagreements it has

relative to SANBAG's Terms and Conditions. SANBAG does not anticipate making any substantive changes to its Terms and Conditions.

M. Schedule for Consultant Selection

Issue Request for Qualifications:	TBD
Statement of Qualifications Due:	TBD
Shortlist and Notify Consultants:	TBD
Interview Shortlisted Consultants:	TBD
Rank Consultants & Begin Negotiations:	TBD
SANBAG Board Approval (Anticipated):	TBD
Notice to Proceed (Anticipated):	TBD

Dates are subject to change. Schedule and other updates will be posted on SANBAG's internet website:

<http://www.sanbag.ca.gov/about/contracting.html>

DRAFT

- 
- San Bernardino County Transportation Commission ■ San Bernardino County Transportation Authority  
■ San Bernardino County Congestion Management Agency ■ Service Authority for Freeway Emergencies
- 

## *Minute Action*

AGENDA ITEM: 7

**Date:** November 13, 2008

**Subject:** Contract No. C09085 to provide Construction Zone Enforcement (COZEEP) services for Freeway Construction Projects

**Recommendation:\*** Approve Contract No. C09085 for COZEEP services with the California Highway Patrol (CHP) for the Major Freeway Projects being managed by SANBAG in the amount not to exceed \$1,000,000 with an agreement term to June 30, 2010.

**Background:** This is a new cooperative agreement. In December 2007 the Board approved Contract No C08120 with the CHP to provide COZEEP services for different SANBAG projects. This existing COZEEP contract, originated by CHP, expires on December 31, 2008 and a new COZEEP contract is required for continued construction work planned for the 2009 calendar year and the first six months of 2010 calendar year.

The planned construction work from January 1, 2009 to June 30, 2010 includes the construction of the I-215 Widening and the SR-210/I-215 Connectors in the City of San Bernardino, the Riverside Interchange at I-10 in the City of Rialto, Retrofit of Muscoy underpass at SR-210 in the City of San Bernardino and Rialto, construction of the Live Oak Canyon Road interchange at I-10 in the City of Yucaipa and other project locations as may be requested by SANBAG.

\*

*Approved*  
*Major Projects Committee*

*Date: November 13, 2008*

*Moved: Christman*

*Second: Gonzales*

*In Favor:*

*Opposed:*

*Abstained:*

*Witnessed:* \_\_\_\_\_

The COZEEP program enables SANBAG to hire CHP officers and vehicles in order to patrol project construction zones. COZEEP is used to increase traffic enforcement above normal levels in situations where traffic problems are anticipated and to reduce the potential for traffic accidents within a construction zone. CHP presence can also reduce traffic speeds and enhance moving vehicle compliance to modified speed limits in construction zones. CHP Officers are also used to slow down, assist in stopping, and/ or directing traffic enabling necessary breaks in traffic for critical movements of Contractor's equipment and operations. The costs associated in providing these services, including the hourly rate of a CHP officer is set by statute and vehicle mileage.

***Financial Impact:*** This action is consistent with the 2008/09 Budget. The revenue source is Measure I Valley Major Projects.

***Reviewed By:*** This item will be reviewed by the Major Projects Committee on November 13, 2008. SANBAG Counsel has reviewed and approved this amendment as to form. Finance has reviewed and approved the Contract Summary Sheet.

***Responsible Staff:*** Garry Cohoe, Director of Freeway Construction

SANBAG Contract No. C09085  
by and between the  
San Bernardino County Transportation Authority  
and  
Department of California Highway Patrol  
for  
Construction Zone Enhanced Enforcement Program

FOR ACCOUNTING PURPOSES ONLY				
<input checked="" type="checkbox"/> Payable <input type="checkbox"/> Receivable	Vendor Contract # <u>C09085</u> Vendor ID <u>CHP1</u>	Retention: <input type="checkbox"/> Yes _____ % <input checked="" type="checkbox"/> No	<input checked="" type="checkbox"/> Original <input type="checkbox"/> Amendment	
Notes:				
Original Contract:      \$ <u>1,000,000</u>		Previous Amendments Total:      \$ <u>0.00</u>		
Contingency Amount:      \$ <u>0.00</u>		Previous Amendments Contingency Total:      \$ <u>0.00</u>		
		Current Amendment:      \$ <u>0.00</u>		
		Current Amendment Contingency:      \$ <u>0.00</u>		
Contingency Amount requires specific authorization by Task Manager prior to release.				
Contract TOTAL →				\$ <u>1,000,000.00</u>
↓ Please include funding allocation for the original contract or the amendment.				
<u>Task</u>	<u>Cost Code</u>	<u>Funding Sources</u>	<u>Grant ID</u>	<u>Amounts</u>
84309000	5553	Measure I	i300	\$ <u>220,000</u>
84109000	5553	Measure I	i300	\$ <u>50,000</u>
82409000	5553	Measure I	i300	\$ <u>30,000</u>
83810000	5553	Measure I	i300	\$ <u>150,000</u>
84110000	5553	Measure I	i300	\$ <u>400,000</u>
82410000	5553	Measure I	i300	\$ <u>150,000</u>
Original Board Approved Contract Date: <u>12/03/08</u> Contract Start: <u>01/01/09</u> Contract End: <u>06/30/10</u>				
New Amend. Approval (Board) Date: <u>          </u> Amend. Start: <u>          </u> Amend. End: <u>          </u>				
If this is a multi-year contract/amendment, please allocate budget authority among approved budget authority and future fiscal year(s)-unbudgeted obligations:				
Approved Budget Authority →	Fiscal Year: <u>08/09</u> \$ <u>300,000</u>	Future Fiscal Year(s) – Unbudgeted Obligation →	\$ <u>700,000</u>	
Is this consistent with the adopted budget? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No				
If yes, which Task includes budget authority? <u>841 and 824</u>				
If no, has the budget amendment been submitted? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No				
CONTRACT MANAGEMENT				
Please mark an "X" next to all that apply:				
<input checked="" type="checkbox"/> Intergovernmental <input type="checkbox"/> Private <input type="checkbox"/> Non-Local <input type="checkbox"/> Local <input type="checkbox"/> Partly Local				
Disadvantaged Business Enterprise: <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes _____ %				
Task Manager: <u>Garry Cohoe</u>			Contract Manager: <u>C. Andrea Nieto</u>	

 Task Manager Signature	Date <u>11/6/08</u>	 Contract Manager Signature	Date <u>11/05/08</u>
 Chief Financial Officer Signature	Date <u>11/6/08</u>		

**STATE OF CALIFORNIA  
DEPARTMENT OF CALIFORNIA HIGHWAY PATROL  
LETTER OF AGREEMENT**

**THIS AGREEMENT**, made and entered into this 3rd day of December, 2008, by and between the State of California, hereinafter called the STATE, acting by and through the Department of California Highway Patrol, hereinafter called the CHP, and the San Bernardino Associated Governments, hereinafter called SANBAG.

**WITNESSETH:** By and in consideration of the covenants and conditions herein contained, SANBAG and the CHP do hereby agree to the following terms and conditions:

1. The purpose of this letter of agreement is to provide supplemental CHP officers to assist SANBAG in the management of public traffic at state highway construction projects. SANBAG has sole discretion in the determination as to whether this service will be requested, per the CALTRANS Construction Manual Chapter 2, Section 215.
2. CHP agrees to provide traffic control services for the construction of the I-215 Widening and the SR-210/I-215 Connectors in the City of San Bernardino, the Riverside Interchange at I-10 in the City of Rialto, Retrofit of Muscoy underpass at SR-210 in the City of San Bernardino and Rialto, construction of the Live Oak Canyon Road interchange at I-10 in the City of Yucaipa and other project locations as may be requested by SANBAG. The number of CHP officers and sergeants for each traffic control service will be determined by each service by SANBAG and the CHP.
3. The CHP San Bernardino Area office will provide uniformed personnel and enforcement vehicles to perform the traffic control.
4. The hours of duty performed by CHP uniformed personnel are those mutually agreed upon by the CHP Contract Coordinator and SANBAG. Any changes to the proposed plan such as additional units, hours, dates, and sites for traffic control can be requested on as needed basis. All changes must be mutually agreed by the parties hereto.
5. CHP officers will normally be used. Sergeants may be used when officers are not available, when requested services warrant the use of a sergeant(s) for the supervision of officers (provided the SANBAG Resident Engineer is notified ahead of time), or when the CHP's operational needs make it impractical to use officers, e.g. sick employees, job action, unexpected decrease in available staffing.
6. Two officers are normally assigned to patrol units between 20:00 and 06:00 hours for officer safety. This does not preclude the assignment of one-officer field patrol units for COZEOP details during these hours, provided that there are at least two fixed-post traffic control assignments in close proximity, the beat environment afford reasonable safety, and the CHP Commander has given authorization. The CHP Commander will make this decision on a project-specific basis, and will decide in the interest of the officer safety.



7. The term of this Agreement shall be January 1, 2009, through June 30, 2010.

8. The Contract Coordinators for this Agreement shall be:

Department of California Highway Patrol  
CHP San Bernardino Area  
Officer Jim Smith  
2211 Western Avenue  
San Bernardino, CA 92411-1243  
Telephone Number: (909) 383-4247

San Bernardino Associated Governments  
C. Andrea Nieto  
2700 Little Mountain Drive, Building B,  
Suite 101  
San Bernardino, CA 92405  
(909) 875-6029 x 202

9. The law enforcement services to be performed by CHP uniformed personnel including the standards of performance, discipline and control thereof, shall be the responsibility of CHP.

10. In the event of an unforeseen emergency, this Agreement may be terminated by CHP without prior notice.

11. This Agreement may be amended by written mutual consent of the parties hereto.

12. In consideration for the above services an upon receipt of an itemized invoice, SANBAG agrees to reimburse CHP for the actual cost incurred at the time services are provided. It is understood by both parties that rate increases in salary and benefits are governed by collective bargaining agreements and the overhead rate is approved by the State. Written notification of increases in salaries, benefits or the overhead rate will be provided to SANBAG as soon as said increase information is available for dissemination by CHP. The following CHP officer overtime rates and vehicle mileage is for estimate purposes only, effective Fiscal Year 07/08, until superseded:

CHP Officer	\$83.72	Overtime per hour
CHP Officer M/C	\$86.61	Overtime per hour
CHP Sergeant	\$101.69	Overtime per hour
CHP Sergeant M/C	\$105.21	Overtime per hour
CHP Automobile	\$00.74	per mile
CHP Motorcycle	\$00.78	per mile

13. The total amount of this Agreement shall not exceed \$1,000,000.00.

14. The CHP shall provide SANBAG with an itemized invoice, detailing CHP's entire costs for the traffic control services performed under this Agreement. SANBAG agrees to pay CHP within thirty (30) days after the date of the invoice.

15. Unforeseen events may require CHP personnel to expend hours in excess of the original estimate.

16. The billing of CHP uniformed personnel's time will be from portal to portal (CHP Area to service location and back to the CHP Area).
17. If the CHP uniformed personnel has reported to the assigned location and has worked less than four (4) hours, SANBAG agrees to pay every assigned CHP uniformed personnel a minimum of four (4) hours overtime. Exception: This does not apply to those cases when the hours worked is part of an extended shift.
18. If the CHP uniformed personnel reports to the assigned service location and if for any reason CHP reassigns the uniformed personnel away from the service location, SANBAG will be billed only for the uniformed personnel's actual time incurred from the CHP Area office to the service location and for the time spent at the assigned service location.
19. Any dispute concerning a question of fact arising under the terms of this agreement which is not resolved within a reasonable period of time by, SANBAG and CHP employees normally responsible for the administration of this contract, shall be brought to the attention of the, SANBAG designated representative and the CHP Administrative Services Officer (or designated representative) for joint resolution. At the request of either party, a forum for discussion of the disputed item(s) will be held, at which time the, SANBAG designated representatives and the CHP Administrative Services Officer (or designated representatives) shall be available to assist in the resolution by providing advice to both parties as to SANBAG and the CHP's policies and procedures. If an agreement cannot be reached through the application of high-level management attention, either party may assert its other rights and remedies within this agreement or within a court of competent jurisdiction.
20. SANBAG and the CHP shall maintain all books, documents, papers, accounting records, and other evidence pertaining to performance of this contract, but not limited to, the costs of administering the contract, for a period of three (3) years after final payment under this contract. The State Auditor, or any duly authorized representative of the State shall have access to any books, records, and documents of either party that are pertinent to the contract for audits, examinations, excerpts and transactions, and copies thereof shall be furnished if requested. (Government Code Section 8546).
21. CANCELLATION
  - a. SANBAG will not be charged for cancellations made more than 24 hours prior to the scheduled assignment.
  - b. If cancellation is made within 24 hours prior to the scheduled assignment and the assigned CHP uniformed personnel **cannot be notified** of such cancellation, a minimum of four (4) hours overtime will be charged for each assigned uniformed personnel.
  - c. If cancellation is made within 24 hours prior to the scheduled assignment and the CHP uniformed personnel is notified of such cancellation, SANBAG will only be charged a short notice cancellation fee of \$50.00 per assigned CHP uniformed personnel.

- d. All cancellation notices to CHP must be made during normal CHP business hours of 8:00 a.m. to 5:00 p.m., Monday through Friday, excluding state holidays.
  - e. CHP agrees to make reasonable efforts to notify the assigned CHP uniformed personnel of the cancellation.
  - f. This Agreement may be canceled by either party upon thirty (30) days prior written notification
22. Additional charges may be assessed for CHP supplies, additional equipment utilized, damage to property repaired or replaced at state expense, which are directly related to the services provided herein.
23. Gifts, donation, or gratuities may not be accepted by CHP employees in their own behalf or in behalf of the Department, informal squad club, or other local funds.
24. Neither STATE nor any officer or employee is responsible for any damage or liability occurring by reason of anything done or omitted to be done by SANBAG under or in connection with any work, authority or jurisdiction delegated to SANBAG under this Agreement. It is understood and agreed that, pursuant to Government Code Section 895.4, SANBAG shall fully defend, indemnify and save harmless the State of California, all officers and employees from all claims, suits or actions of every name, kind and description brought for or in account of injury (as defined in Government Code Section 810.8) occurring by reason of anything done or omitted to be done by SANBAG under or in connection with any work, authority or jurisdiction delegated to SANBAG under this Agreement.
25. Neither SANBAG nor any officer or employee is responsible for any damage or liability occurring by reason of anything done or omitted to be done by STATE under or in connection with any work, authority or jurisdiction delegated to STATE under this Agreement. It is understood and agreed that, pursuant to Government Code Section 895.4, STATE shall fully defend, indemnify and save harmless SANBAG, all officers and employees from all claims, suits or actions of every name, kind and description brought for or in account of injury (as defined in Government Code Section 810.8) occurring by reason of anything done or omitted to be done by STATE under or in connection with any work, authority or jurisdiction delegated to STATE under this Agreement.

26. SANBAG agrees to provide CHP with a resolution, motion, order or ordinance of the governing body which bylaw authorized execution of this Agreement, and indicates the individual who is authorized to sign the Agreement on behalf of SANBAG.

STATE OF CALIFORNIA  
Department of California Highway Patrol

SAN BERNARDINO ASSOCIATED  
GOVERNMENTS

\_\_\_\_\_  
L. A. PAOLINI

\_\_\_\_\_  
Gary C Ovitt, President  
SANBAG Board of Directors

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

Department of California Highway Patrol  
Business Services Section  
Contract Services Unit  
P.O. Box 942898  
Sacramento, CA 94298-0001  
(916) 375-2965

San Bernardino Associated Governments  
2700 Little Mountain Drive,  
1170 W 3rd Street, 2nd Floor  
San Bernardino, CA 92410  
(909) 889-8611

Approved as to form:

By: \_\_\_\_\_

Jean-Rene Basle,  
SANBAG Counsel

Date: \_\_\_\_\_

- 
- San Bernardino County Transportation Commission ■ San Bernardino County Transportation Authority  
■ San Bernardino County Congestion Management Agency ■ Service Authority for Freeway Emergencies
- 

## *Minute Action*

AGENDA ITEM: 8

**Date:** November 13, 2008

**Subject:** Contract No. C09-100 with DMJM+HARRIS, Inc. for construction engineering support on I-215, Segments 1 and 2

**Recommendation\*:** Approve Sole Source Contract No. C09-100 with DMJM+HARRIS, Inc. for construction engineering support on I-215, Segments 1 and 2 in the amount of \$400,000 as detailed in the Financial Impact Section. TN 83809000

**Background:** This is a new, sole source contract. Under the terms of our cooperative agreements for design with Caltrans, SANBAG is obligated to make the design consultant who prepared the plans available for consultation and corrections during the construction process. In this instance, the designer is DMJM+HARRIS, Inc. Frequently the contractors and construction field staff require from the designer of record either additional information, authorization for changes, or corrections in order to proceed with construction.

No precise scope of work for this type of contract can be specified since it depends entirely on how things go in the field. The \$400,000 cost of this contract represents a budget that should adequately cover the construction engineering need for a project of this size. This is consistent with other similar contracts on Route 210/30 and the costs incurred for construction engineering on Rt. 71.

---

*Approved*  
*Major Projects Committee*

*Date:* November 13, 2008

*Moved:* *Second:*

*In Favor:* *Opposed:* *Abstained:*

*Witnessed:* \_\_\_\_\_

***Financial Impact:*** The expenditure is consistent with SANBAG's adopted Fiscal Year 2008/2009 budget. TN 83809000.

***Reviewed By:*** This item will be reviewed by the Major Projects Committee on November 13, 2008. This item has been reviewed by SANBAG Counsel.

***Responsible Staff:*** Garry Cohoe, Director of Freeway Construction

SANBAG Contract No. C09100  
by and between  
San Bernardino County Transportation Authority  
and  
DMJM+HARRIS, Inc.  
for

I-215 Segments 1 and 2 Construction Support Services

**FOR ACCOUNTING PURPOSES ONLY**

<input checked="" type="checkbox"/> Payable <input type="checkbox"/> Receivable	Vendor Contract # _____ Vendor ID _____	Retention: <input type="checkbox"/> Yes _____ % <input type="checkbox"/> No	<input checked="" type="checkbox"/> Original <input type="checkbox"/> Amendment
--	--	--	--

**Notes:**

Original Contract:      \$ <u>400,000</u>	Previous Amendments Total:      \$ _____
	Previous Amendments Contingency Total:      \$ _____
Contingency Amount:      \$ _____	Current Amendment:      \$ _____
	Current Amendment Contingency:      \$ _____

Contingency Amount requires specific authorization by Task Manager prior to release.

***Contract TOTAL →***

**\$ 400,000.00**

↓ Please include funding allocation for the original contract or the amendment.

Task	Cost Code	Funding Sources	Grant ID	Amounts
<u>8380900</u>	<u>5553</u>	<u>Meas. I Valley Major Projects</u>	<u>I300</u>	<u>\$ 100,000</u>
<u>8381000</u>	<u>5553</u>	<u>Meas. I Valley Major Projects</u>	<u>I300</u>	<u>\$ 100,000</u>
<u>8381100</u>	<u>5553</u>	<u>Meas. I Valley Major Projects</u>	<u>I300</u>	<u>\$ 100,000</u>
<u>8381200</u>	<u>5553</u>	<u>Meas. I Valley Major Projects</u>	<u>I300</u>	<u>\$ 70,000</u>
<u>8381300</u>	<u>5553</u>	<u>Meas. I Valley Major Projects</u>	<u>I300</u>	<u>\$ 30,000</u>

Original Board Approved Contract Date: <u>12/3/08</u>	Contract Start: <u>12/3/08</u>	Contract End: <u>12/3/13</u>
New Amend. Approval (Board) Date: _____	Amend. Start: _____	Amend. End: _____

**If this is a multi-year contract/amendment, please allocate budget authority among approved budget authority and future fiscal year(s)-unbudgeted obligations:**

Approved Budget Authority →	Fiscal Year: <u>08/09</u> \$ <u>100,000</u>	Future Fiscal Year(s) – Unbudgeted Obligation →	\$ <u>300,000</u>
-----------------------------	--	--	-------------------

Is this consistent with the adopted budget?    ☒ Yes    ☐ No  
 If yes, which Task includes budget authority? 838  
 If no, has the budget amendment been submitted?    ☐ Yes    ☐ No

**CONTRACT MANAGEMENT**

**Please mark an "X" next to all that apply:**

☐ Intergovernmental   
 ☒ Private   
 ☐ Non-Local   
 ☐ Local   
 ☐ Partly Local

Disadvantaged Business Enterprise: ☐ No    ☐ Yes \_\_\_\_\_ %

Task Manager: Garry Cohoe

Contract Manager: Dennis Saylor

Task Manager Signature

Date

Contract Manager Signature

Date

Chief Financial Officer Signature

Date

**CONTRACT NO: C09100**

**EFFECTIVE DATE: December 3, 2008**

**by and between**

**San Bernardino  
County Transportation Authority**

**and**

**DMJM+HARRIS, Inc.**

**for**

**I-215 Segments 1 and 2 Construction Support Services**



## TABLE OF CONTENTS

<u>DESCRIPTION</u>	<u>PAGE</u>
Article 1 Description of Services .....	1
Article 2 Performance Schedule and Force Majeure .....	1
Article 3 Contract Price and Cost Principles .....	2
Article 4 Availability of Funds .....	3
Article 5 Taxes, Duties, Fees .....	3
Article 6 Invoicing and Payments .....	3
Article 7 Documentation and Right of Audit .....	4
Article 8 Responsibility of the Engineer .....	4
Article 9 Reporting Requirements/Deliverables .....	5
Article 10 Permits and Licenses .....	5
Article 11 Technical Direction .....	5
Article 12 Changes .....	7
Article 13 Federal and State Mandatory Provisions .....	7
Article 14 Conflict of Interest .....	9
Article 15 Key Personnel .....	9
Article 16 Representations .....	10
Article 17 Proprietary Rights/Confidentiality .....	10
Article 18 Terminations .....	11
Article 19 Stop Work Orders .....	12
Article 20 Claims .....	13
Article 21 Insurance .....	13
Article 22 Indemnity .....	14
Article 23 Damages due to Errors and Omissions .....	14
Article 24 Ownership of Drawings and Data .....	15
Article 25 Subcontracts .....	15
Article 26 Inspection and Access .....	16
Article 27 Independent Contractor .....	16
Article 28 Precedence .....	16
Article 29 Communications and Notices .....	16
Article 30 Disputes .....	17
Article 31 Gratuities .....	18
Article 32 Review and Acceptance .....	18
Article 33 Safety .....	18
Article 34 Assignment .....	18
Article 35 Amendments .....	19
Article 36 Governing Law and Venue .....	19
Article 37 Suspension of Services .....	19
Article 38 Contingent Fee .....	20
Article 39 Location of Performance .....	20
Article 40 Entire Document .....	20
Article 41 Attorney's Fees .....	21

**CONTRACT**  
**FOR**  
**ENGINEERING SERVICES**

This Contract, entered into this 3<sup>rd</sup> day of December 2008, by the firm of DMJM+HARRIS, Inc. doing business as AECOM (hereinafter called CONSULTANT) whose address is:

**1131 W. Sixth St., Suite 350, Ontario, CA 91762**

and San Bernardino County Transportation Authority (hereinafter called AUTHORITY) whose address is:

**1170 W. 3<sup>rd</sup> Street, 2<sup>nd</sup> Floor  
San Bernardino, CA 92410-1715**

Whereas, AUTHORITY desires CONSULTANT to perform certain technical Services as hereinafter described and CONSULTANT desires to do so for the compensation and in accordance with the terms and conditions set forth herein.

NOW, THEREFORE, the parties hereto agree as follows:

**Article 1      Description of Services**

CONSULTANT agrees to perform Services set forth in Attachment "A", Scope of Services, which is incorporated herein by reference, in accordance with high professional engineering and environmental services which are generally accepted in the State of California, in accordance with the terms and conditions expressed herein and in the sequence, time, and manner defined therein. The word "Services," as used herein, includes without limitation, the performance, fulfillment and discharge by CONSULTANT of all obligations, duties, tasks, and services imposed upon or assumed by CONSULTANT hereunder; and the Services performed hereunder shall be completed to the satisfaction of AUTHORITY, with their satisfaction being based on prevailing professional engineering and environmental services standards.

**Article 2      Performance Schedule and Force Majeure**

- 2.1      The Period of Performance by CONSULTANT under this Contract shall commence on December 3, 2008 and shall continue in effect for sixty (60) months, until work is completed, or otherwise terminated, cancelled or extended as hereinafter provided.

### **Article 3      Contract Price and Cost Principles**

- 3.1 Full compensation to CONSULTANT for full and complete performance of all Services, compliance with all the terms and conditions of this Contract, payment by CONSULTANT of all obligations incurred in, or application to, CONSULTANT's performance of Services, and for which CONSULTANT shall furnish all personnel, facilities, equipment, materials, supplies, and Services (except as may be explicitly set forth in this Contract as furnished by AUTHORITY), shall not exceed the amounts set forth in 3.2 below.
- 3.2 The total cost for Services to the project shall not exceed \$400,000.00. This amount does not include a contingency. Services to be provided under terms of this Contract are to be provided on an as needed basis and compensated for as set forth in Attachment "B" which is incorporated herein by reference. Utilization of the contingency is not permitted unless directed in writing by AUTHORITY Project Manager. CONSULTANT's fee for services is included in the total estimated contract cost and shall be a fixed percentage fee, as agreed upon, and noted in Attachment "B".
- 3.3 CONSULTANT's overhead rates will be fixed, as set forth in Attachment "B" for the duration of this Contract. The fixed overhead rate will not be subject to adjustment. Any percentage increase over 5% per year over the direct labor rate in Attachment "B" is not permitted without prior authorization from AUTHORITY.
- 3.4 Not used.
- 3.5 The cost principles set forth in Part 31, Contract Cost Principles and Procedures, in Title 48, Federal Acquisition Regulations System of the Code of Federal Regulations (CFR) as constituted on the effective date of this Contract shall be utilized to determine allowableness of costs under this Contract and may be modified from time to time by amendment of the Contract.
  - 3.5.1 The CONSULTANT agrees to comply with Federal Department of Transportation procedures in accordance with 49 CFR, Part 18, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments.
  - 3.5.2 Any costs for which payment has been made to CONSULTANT that are determined by subsequent audit to be unallowable under 48 CFR, Part 31, Contract Cost Principles and Procedures, or 49 CFR, Part 18, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments shall be repaid by CONSULTANT to AUTHORITY.
  - 3.5.3 Any subcontract, entered into as a result of this Contract shall

contain all of the provisions of this Section 3.5.

- 3.6 Any Services provided by the CONSULTANT not specifically covered by the Scope of Services (Attachment "A") shall not be compensated without prior written authorization from AUTHORITY. It shall be CONSULTANT's responsibility to recognize and notify AUTHORITY when services not covered by the Scope of Services have been requested or are required. All changes and/or modifications to the Scope of Services shall be made in accordance with Article 12, Changes.

#### **Article 4 Availability of Funds**

This Contract is awarded on the contingency of availability of funds. The obligation of AUTHORITY is conditioned upon the availability of funds that are allocated and available for the payment of such an obligation. If funds are not allocated and available for the continuance of Services performed by CONSULTANT, Services directly or indirectly involved may be suspended or terminated by AUTHORITY at the end of the period for which funds are available. When AUTHORITY becomes aware that any portion of Services that will or may be affected by a shortage of funds, it will immediately so notify CONSULTANT. Nothing herein shall relieve AUTHORITY from its obligation to compensate CONSULTANT for Services actually performed pursuant to this Contract prior to such notification. No penalty shall accrue to AUTHORITY in the event this provision is exercised.

#### **Article 5 Taxes, Duties, Fees**

CONSULTANT shall pay when due, and the compensations set forth in Article 3, Contract Price and Cost Principles, shall be inclusive of all; a) local, municipal, state, and federal sales and use taxes, b) excise taxes, c) taxes on personal property owned by CONSULTANT, and d) all other governmental fees and taxes or charges of whatever nature applicable to CONSULTANT to enable it to conduct business.

#### **Article 6 Invoicing and Payments**

- 6.1 The compensation of CONSULTANT as provided herein shall be payable in 4 week billing period payments, forty-five (45) calendar days after receipt by AUTHORITY of an invoice prepared in accordance with instructions below. Payment shall not be construed to be an acceptance of Services.
- 6.2 CONSULTANT shall prepare all invoices in a form satisfactory to and approved by AUTHORITY and it shall be accompanied by documentation supporting each element of measurement and/or cost. Each invoice will be for a 4 week billing period and will be marked with AUTHORITY's project name, contract number, and task order number. CONSULTANT and AUTHORITY's Project Manager shall mutually agree on a cutoff date for invoices. The cutoff date for CONSULTANT's invoices shall be

consistent from each period. Invoices shall be submitted within fifteen (15) calendar days after the cutoff date for the period covered by the invoice. Invoices shall include request for payment for Services (including additional Services authorized by AUTHORITY) completed by CONSULTANT during each billing period. Any invoice submitted which fails to comply with the terms of this Contract, including the requirements of form and documentation, may be returned to CONSULTANT. Any costs incurred by CONSULTANT in connection with the resubmission of a proper invoice shall be at CONSULTANT's sole expense.

- 6.3 CONSULTANT shall furnish evidence, satisfactory to AUTHORITY, that all labor and materials furnished and equipment used during the period covered by the invoice have been incurred. AUTHORITY shall not be obligated to make payments to CONSULTANT until CONSULTANT furnishes such evidence. Upon furnishing such evidence, satisfactory to AUTHORITY, AUTHORITY shall pay CONSULTANT the full amount of the invoice less disputed amounts.
- 6.4 CONSULTANT shall include a statement and release with each invoice, satisfactory to AUTHORITY, that CONSULTANT has fully performed the Services invoiced pursuant to this Contract for the period covered, and that all claims of CONSULTANT and its subcontractors for Services during the period will be satisfied upon the making of such payment. AUTHORITY shall not be obligated to make payments to CONSULTANT until CONSULTANT furnishes such statement and release.
- 6.5 CONSULTANT shall forfeit the fixed fee portion of the progress payment for any billing period that CONSULTANT fails to submit an invoice within sixty (60) calendar days after the cutoff date for the billing period.
- 6.6 CONSULTANT shall forfeit all costs incurred for a progress payment for any billing period that CONSULTANT fails to submit an invoice within one-hundred twenty (120) calendar days after the cutoff date for the billing period.

#### **Article 7      Documentation and Right of Audit**

CONSULTANT shall keep and maintain all books, papers, records, accounting records including but not limited to all direct and indirect costs allocated to Services, files, accounts, reports, cost proposals with backup data, and all other material relating to Services. CONSULTANT shall upon request, make all such materials available to AUTHORITY or its designee at any reasonable time during the term of the Contract and for three (3) years from the date of final payment to CONSULTANT, for auditing, inspection and copying. CONSULTANT shall insert in each of its subcontracts the above requirement.

#### **Article 8      Responsibility of the Engineer**

- 8.1 The CONSULTANT shall be responsible for the professional quality, technical accuracy, and the coordination of all calculations, drawings, notes and other Services furnished by the CONSULTANT under terms of this Contract.
- 8.2 In addition to any other requirements of this Contract or duties and obligations imposed on CONSULTANT by law, the CONSULTANT shall, as an integral part of its Services, employ quality control procedures that identify potential risks and uncertainties related to construction of the project and the Services performed by CONSULTANT within the areas of CONSULTANT Services and expertise. Risks that may be encountered include, but are not limited to, soil conditions, constructability, factors of safety, impact on adjacent properties, public safety, and environmental considerations. At any time during performance of the contracted Scope of Services, should the CONSULTANT observe, encounter, or identify any unusual circumstances or uncertainties which could pose potential risk and uncertainties, CONSULTANT shall immediately document such matters and notify AUTHORITY of said circumstances and related concerns. CONSULTANT shall also similarly notify AUTHORITY in regard to the possibility of any natural catastrophe, potential failure, or any situation that exceeds design assumptions and could precipitate a failure. Notifications under this paragraph shall be specific, clear and timely, and in a form which will enable AUTHORITY to understand and evaluate the magnitude and effect of the risk and uncertainties involved.

**Article 9 Reporting Requirements/Deliverables**

All Reports and deliverables shall be submitted in accordance with Attachment "A", Scope of Services.

**Article 10 Permits and Licenses**

CONSULTANT shall (without additional compensation) keep current all governmental permits, certificates and licenses (including professional licenses) necessary for CONSULTANT to perform Services.

**Article 11 Technical Direction**

- 11.1 Performance of Services under this Contract shall be subject to the technical direction of the AUTHORITY Contract Manager, or his designee, as identified in Attachment "A", Scope of Services, attached to this Contract. The AUTHORITY Contract Manager will identify his designee, in writing to CONSULTANT, with the notice to proceed and subsequently with any changes during the Contract period. The term "Technical Direction" is defined to include, without limitation:

- 11.1.1 Directions to the CONSULTANT which redirect the Contract effort, shift work emphasis between work areas or tasks, require pursuit of certain lines of inquiry, fill in details or otherwise serve to accomplish the contractual Scope of Services.
- 11.1.2 Provision of written information to the CONSULTANT which assists in the interpretation of drawings, reports, or technical portions of Service description.
- 11.1.3 Review and, where required by the Contract, approval of technical reports, drawings, specifications and technical information to be delivered by the CONSULTANT to AUTHORITY or Caltrans under the Contract.
- 11.2 Technical direction must be within the Scope of Services in the Contract. The AUTHORITY Contract Manager or designee does not have the authority to, and may not, issue any technical direction which:
  - 11.2.1 Constitutes an assignment of additional Services outside the Scope of Services;
  - 11.2.2 Constitutes a change as defined in the Contract clause entitled "Changes";
  - 11.2.3 In any manner causes an increase or decrease in the Contract's estimated cost or price or the time required for Contract performance;
  - 11.2.4 Changes any of the expressed terms, conditions or specifications of the Contract; or
  - 11.2.5 Interferes with the CONSULTANT's right to perform the terms and conditions of the Contract.
  - 11.2.6 A failure of the CONSULTANT and AUTHORITY Contract Manager to agree that the technical direction is within the scope of the Contract, or a failure to agree upon the Contract action to be taken with respect thereto shall be subject to the provisions of Article 30, Disputes.
- 11.3 All technical directions shall be issued in writing by the AUTHORITY Contract Manager or his designee.
- 11.4 The CONSULTANT shall proceed promptly with the performance of technical directions duly issued by the AUTHORITY Contract Manager or his designee, in the manner prescribed by this article and within his authority under the provisions of this clause. If, in the opinion of the CONSULTANT, any instruction or direction by the AUTHORITY

Contract Manager or his designee, falls within one of the categories defined in 11.2.1 through 11.2.5 above, the CONSULTANT shall not proceed but shall notify the Contract Manager in writing within five (5) working days after receipt of any such instruction or direction and shall request the Contract Manager to modify the Contract accordingly. Upon receiving the notification from the CONSULTANT, the Contract Manager shall:

11.4.1 Advise the CONSULTANT in writing within thirty (30) days after receipt of the CONSULTANT's letter that the technical direction is or is not within the scope of Article 12, Changes;

11.4.2 Advise the CONSULTANT within a reasonable time that AUTHORITY will or will not issue a written change order.

## **Article 12 Changes**

12.1 The Services shall be subject to changes by additions, deletions, or revisions thereto by AUTHORITY. CONSULTANT will be advised of any such changes by written notification from AUTHORITY describing the change.

12.2 Promptly after such written notification of change is given to CONSULTANT by AUTHORITY, CONSULTANT and AUTHORITY will attempt to negotiate a mutually agreeable change in compensation or time of performance and amend the Contract accordingly. If CONSULTANT and AUTHORITY are unable to agree on the compensation change, the CONSULTANT may make a claim per Article 20, Claims. CONSULTANT shall have no obligation to perform the changes, and shall not be entitled to compensation for Services performed on such changes, prior to the execution of the change order relating to the changes required by AUTHORITY.

12.3 CONSULTANT shall not suspend performance of this Contract during the negotiation of any change order, except as may be directed by AUTHORITY. CONSULTANT shall perform all changes in accordance with all the terms of this Contract.

## **Article 13 Federal and State Mandatory Provisions**

### **13.1 Equal Employment Opportunity/Nondiscrimination**

13.1.1 In connection with the execution of this Contract, the CONSULTANT shall not discriminate directly or indirectly against any employee or applicant for employment because of race, color, religion, sex, age, or national origin. The CONSULTANT shall take action to insure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, age, or



national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selections of training, including apprenticeship. The CONSULTANT agrees to post in conspicuous places available to employees and applicants for employment notices setting forth the provisions of the Equal Opportunity clause.

13.1.2 The CONSULTANT shall, in all solicitations or advertisements for employees placed by or on behalf of the CONSULTANT, state that all qualified applications shall receive consideration for employment without regard to race, color, religion, sex, age, or national origin.

13.1.3 The CONSULTANT shall send to each labor union or representative of workers with which it has a collective bargaining agreement or other Contract or understanding, a notice advising the labor union or workers representative of the CONSULTANT's commitments under this Equal Opportunity clause, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

13.1.4 The CONSULTANT shall comply with all provisions of Executive Order No 11246 as amended by Executive Order 11375, and as supplemented in Department of Labor regulations (41 CFR, Part 60), and shall permit access to its books, records, and accounts by AUTHORITY and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

13.1.5 In the event of the CONSULTANT's noncompliance with the Equal Opportunity clause of this Contract or any of the said rules, regulations, or orders, this Contract may be canceled, terminated, or suspended, in whole or in part, and the CONSULTANT may be declared ineligible for further government contracts in accordance with procedures authorized in Executive Order No. 11246 as amended by Executive Order 11375, and as supplemented in Department of Labor Regulations (41 CFR, Part 60).

13.1.6 The CONSULTANT shall include the provisions of paragraphs (13.1.1) through (13.1.6) of this Article in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 as amended by Executive Order 11375, and as supplemented in Department of Labor regulations (41 CFR, Part 60), so that such provisions will be binding upon each subcontract or vendor. The

CONSULTANT shall take such action with respect to any subcontract or purchase order as AUTHORITY may direct as a means of enforcing such provisions, including sanctions for noncompliance. Provided, however, that in the event the CONSULTANT becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by AUTHORITY, the CONSULTANT may request AUTHORITY to enter into such litigation to protect the interests of AUTHORITY.

### **13.2 Handicapped Workers**

- 13.2.1 The CONSULTANT will not discriminate against any employee or applicant for employment because of physical or mental handicap in regard to any position for which the employee or applicant for employment is qualified. The CONSULTANT agrees to take action to employ, advance in employment and otherwise treat qualified handicapped individuals without discrimination based upon their physical or mental handicap in all employment practices such as the following: employment, upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

## **Article 14 Conflict of Interest**

- 14.1 The CONSULTANT agrees that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of Services required to be performed under this Contract. The CONSULTANT further agrees that in the performance of this Contract, no person having any such interest shall be employed.
- 14.2 No portion of the funds received by the CONSULTANT under this Contract shall be used for political activity or to further the election or defeat of any candidate for public office.

## **Article 15 Key Personnel**

- 15.1 The personnel specified in 15.2 below are considered to be essential to Services being performed hereunder. Prior to diverting any of the specified individuals to other projects, or reallocation of tasks and hours of Services that are the responsibility of key personnel to other personnel, the CONSULTANT shall notify AUTHORITY reasonably in advance and shall submit justifications (including proposed substitutions) in sufficient detail to permit evaluation of the import on the project. Diversion or reallocation of key personnel shall be subject to written approval by

AUTHORITY. AUTHORITY also reserves the right to approve proposed substitutions for key personnel.

15.2 Key Personnel are:

Mario Montes  
Terence Pao

Ben Kho  
Kosal Krishnan

**Article 16 Representations**

CONSULTANT agrees with AUTHORITY that Services supplied by CONSULTANT in performance of this Contract shall be supplied by personnel who are careful, skilled, experienced and competent in their respective trades or professions. CONSULTANT agrees that it is supplying professional Services, findings, and/or recommendations in the performance of this Contract and agrees with AUTHORITY that the same shall conform to high professional engineering and environmental principles and standards that are generally accepted in the State of California.

**Article 17 Proprietary Rights/Confidentiality**

- 17.1 If, as a part of the Contract, CONSULTANT is required to produce materials, documents, data or information ("Products"), then CONSULTANT, if requested by AUTHORITY, shall deliver to AUTHORITY the original of all such Products which shall become the property of AUTHORITY.
- 17.2 All materials, documents, data or information obtained from AUTHORITY's data files or any AUTHORITY medium furnished to CONSULTANT in the performance of this Contract will at all times remain the property of AUTHORITY. Such data or information may not be used or copied for direct or indirect use outside of these services by CONSULTANT without the express written consent of AUTHORITY.
- 17.3 Except as reasonably necessary for the performance of Services, CONSULTANT and its employees and agents shall hold in confidence the materials and information referred to in this Article 17, Proprietary Rights/Confidentiality, which are produced by CONSULTANT for AUTHORITY in the performance and completion of CONSULTANT's Services under the Contract, until released in writing by AUTHORITY, except to the extent such materials and information become a part of public domain information through no fault of CONSULTANT, or its employees or agents.
- 17.4 CONSULTANT shall not use AUTHORITY's name or photographs of the Project in any professional publication, magazine, trade paper, newspaper, seminar or other medium without first receiving the express written consent of AUTHORITY.

- 17.5 All press releases relating to the Project or this Contract, including graphic display information to be published in newspapers, magazines, and other publications, are to be made only by AUTHORITY unless otherwise agreed to by CONSULTANT and AUTHORITY.
- 17.6 CONSULTANT agrees that it, and its employees, agents, and subcontractors will hold confidential and not divulge to third parties without the prior written consent of AUTHORITY, any information obtained by CONSULTANT from or through AUTHORITY in connection with CONSULTANT's performance of this Contract, unless (a) the information was known to CONSULTANT prior to obtaining same from AUTHORITY pursuant to a prior Contract; or (b) the information was at the time of disclosure to CONSULTANT, or thereafter becomes part of the public domain, but not as a result of the fault or an unauthorized disclosure of CONSULTANT or its employees, agents, or subcontractors, or (c) the information was obtained by CONSULTANT from a third party who did not receive the same, directly or indirectly, from AUTHORITY and who had, to CONSULTANT's knowledge and belief, the right to disclose the same.

## **Article 18 Terminations**

- 18.1 Termination for Convenience. AUTHORITY shall have the right at any time, with or without cause, to terminate further performance of Services by written notice to CONSULTANT specifying the date of termination. On the date of such termination stated in said notice, CONSULTANT shall discontinue performance of Services and shall preserve work in progress and completed work ("Work"), pending AUTHORITY'S instruction, and shall turn over such Work in accordance with AUTHORITY's instructions.
- 18.1.1 CONSULTANT shall deliver to AUTHORITY, in accordance with AUTHORITY'S instructions, all Products prepared by CONSULTANT or its subcontracts or furnished to CONSULTANT by AUTHORITY. Upon such delivery, CONSULTANT may then invoice AUTHORITY for payment in accordance with the terms hereof.
- 18.1.2 If CONSULTANT has fully and completely performed all obligations under this Contract up to the date of termination, CONSULTANT shall be entitled to receive from AUTHORITY as complete and full settlement for such termination a pro rata share of the Contract cost and a pro rata share of any fixed fee, for such Services satisfactorily executed to the date of termination.
- 18.1.3 CONSULTANT shall be entitled to receive the actual cost incurred by CONSULTANT to return CONSULTANT's field tools and equipment, if any, to it or its suppliers' premises, or

to turn over Work and Products in accordance with AUTHORITY's instructions plus the actual cost necessarily incurred in effecting the termination.

18.2 Termination for Cause. In the event CONSULTANT shall file a petition in bankruptcy, or shall make a general assignment for the benefit of its creditors, or if a petition in bankruptcy shall be filed against CONSULTANT or a receiver shall be appointed on account of its solvency, or if CONSULTANT shall default in the performance of any express obligation to be performed by it under this Contract and shall fail to immediately correct (or if immediate correction is not possible, shall fail to commence and diligently continue action to correct) such default within ten (10) calendar days following written notice thereof, AUTHORITY may, without prejudice to any other rights or remedies AUTHORITY may have, (a) hold in abeyance further payments to CONSULTANT; (b) stop any Services of CONSULTANT or its subcontractors related to such failure until such failure is remedied; and/or (c) terminate this Contract by written notice to CONSULTANT specifying the date of termination. In the event of such termination by AUTHORITY, AUTHORITY may take possession of the Products and finish Services by whatever method AUTHORITY may deem expedient. A waiver by AUTHORITY of one default of CONSULTANT shall not be considered to be a waiver of any subsequent default of CONSULTANT, nor be deemed to waive, amend, or modify any term of this Contract.

18.2.1 In the event of termination CONSULTANT shall deliver to AUTHORITY all finished and unfinished Products prepared by CONSULTANT or its subcontractors or furnished to CONSULTANT by AUTHORITY.

18.3 All claims for compensation or reimbursement of costs under any of the foregoing provisions shall be supported by documentation submitted to AUTHORITY, satisfactory in form and content to AUTHORITY and verified by AUTHORITY. In no event shall CONSULTANT be entitled to any prospective profits or any damages because of such termination.

## **Article 19 Stop Work Orders**

Upon failure of CONSULTANT or its subcontractors to comply with any of the requirements of this Contract, AUTHORITY shall have the authority to stop any Services of CONSULTANT or its subcontractors affected by such failure until such failure is remedied or to terminate this Contract in accordance with Article 18, Termination. No part of the time lost due to any such stop orders shall be made the subject of a claim for extension of time or for increased costs or damages by CONSULTANT.

## **Article 20      Claims**

CONSULTANT shall give AUTHORITY written notice within seven (7) days after the happening of any event which CONSULTANT believes may give rise to a claim by CONSULTANT for an increase in the Contract amount or in the scheduled time for performance. Within fourteen (14) days after the happening of such events, CONSULTANT shall supply AUTHORITY with a statement supporting CONSULTANT's claim, which statement shall include CONSULTANT's detailed estimate of the change in Contract amount and scheduled time occasioned thereby. AUTHORITY shall not be liable for, and CONSULTANT hereby waives, any claim or potential claim of CONSULTANT of which CONSULTANT knew or should have known and which was not reported by CONSULTANT in accordance with the provisions of this Article. CONSULTANT agrees to continue performance of Services during the time any claim of CONSULTANT hereunder is pending. AUTHORITY shall not be bound to any adjustments in the Contract amount or scheduled time for CONSULTANT's claim unless expressly agreed to by AUTHORITY in writing and any such adjustments in the Contract amount so agreed to in writing shall be paid to CONSULTANT by AUTHORITY. No claim hereunder by CONSULTANT shall be allowed if asserted after final payments under this Contract.

## **Article 21      Insurance**

In order to accomplish the indemnification herein provided for, but without limiting the indemnification, CONSULTANT shall secure and maintain throughout the term of the Contract the following types of insurance with limits as shown:

- 21.1 Professional Liability Insurance coverage in an amount not less than \$1,000,000, per claim and in the aggregate. CONSULTANT shall secure and maintain this insurance throughout the term of this Contract and for a minimum of three (3) years after completion and acceptance of Services by AUTHORITY.
- 21.2 Workers' Compensation Insurance or state-approved self-insurance program in an amount and form to meet all applicable requirements of the Labor Code of the State of California, including Employers Liability with \$250,000 limits, covering all persons providing Services on behalf of CONSULTANT.
- 21.3 Comprehensive General Liability Insurance or Commercial General Liability Insurance, including coverage for Premises and Operations, Contractual Liability, Personal Injury Liability, Broad-Form Property Damage and Independent Contractors' Liability, in an amount of not less than \$1,000,000 per occurrence, combined single limit, and \$3,000,000 in the aggregate written on an occurrence form.

For products and completed operations a \$2,000,000.00 aggregate shall be provided.

- 21.4 Comprehensive Automobile Liability Coverage, including owned, non-owned and hired automobiles, in an amount of not less than \$1,000,000 per occurrence, combined single limit, and in the aggregate written on an occurrence form.
- 21.5 Proof of Coverage. CONSULTANT shall immediately furnish certificates of insurance to AUTHORITY evidencing the insurance coverage required above, prior to the commencement of performance of Services hereunder, and such certificates shall include San Bernardino Associated Governments/San Bernardino County Transportation Authority and Fluor Corporation (project administration consultant) as additional insured on Comprehensive General Liability Insurance or Commercial General Liability Insurance and auto insurance. The certificates shall provide that such insurance shall not be terminated without thirty (30) days written notice to AUTHORITY, and CONSULTANT shall maintain such insurance from the time CONSULTANT commences performance of Services hereunder until the completion of such Services.

## **Article 22 Indemnity**

CONSULTANT agrees to indemnify, hold harmless, and defend, with counsel approved by AUTHORITY, AUTHORITY, and their officers, employees (past and present), agents, and representatives including Fluor Corporation, from and against:

- 22.1 Any claim, cause of action, liability, loss, cost or expense arising from infringement or improper appropriation or use by AUTHORITY of trade secrets, proprietary information, know-how, copyright rights or inventions, arising out of the use of methods, processes, designs, information, or other items furnished or communicated to AUTHORITY by CONSULTANT in connection with performance of Services; and
- 22.2 Any claim, cause of action, liability, loss, cost or expense, on account of injury to or death of persons or damage to or loss of property which arises out of, pertains to, or relate to negligence, recklessness, or willful misconduct of CONSULTANT or its subcontractors, employees, or agents, in the performance of Services, and includes any and all expenses, including attorneys' fees, incurred by AUTHORITY for legal action to enforce CONSULTANT's indemnification obligations hereunder.

## **Article 23 Damages due to Errors and Omissions**

- 23.1 Architect-Engineer Consultants shall be responsible for the professional quality, technical accuracy, and coordination of all services required under this Agreement. A CONSULTANT may be liable for

AUTHORITY costs resulting from errors or deficiencies in designs furnished under its Agreement.

- 23.2 When a modification to a construction contract is required because of an error or deficiency in the services provided under this A&E Agreement, the contracting officer (with the advice of technical personnel and legal counsel) shall consider the extent to which the A&E Consultant may be reasonably liable.
- 23.3 AUTHORITY's contracting officer shall enforce the liability and collect the amount due, if the recoverable cost will exceed the administrative cost involved or is otherwise in the AUTHORITY's interest. The contracting officer shall include in the Agreement file a written statement of the reasons for the decision to recover or not to recover the costs from the CONSULTANT.

#### **Article 24      Ownership of Drawings and Data**

All drawings, specifications reports and other data developed by CONSULTANT under this Contract shall become the property of AUTHORITY when prepared, whether delivered to AUTHORITY or not.

#### **Article 25      Subcontracts**

- 25.1 CONSULTANT shall not subcontract performance of all or any portion of Services under this Contract, excepting to subcontractors listed in the CONSULTANT's proposal, without first notifying AUTHORITY of the intended subcontracting and obtaining AUTHORITY's Project Manager's approval in writing of the subcontracting and the subcontractor. The definition of subcontractor and the requirements for subcontractors hereunder shall include all lower-tier subcontracts.
- 25.2 CONSULTANT agrees that any and all subcontractors of CONSULTANT will comply with the terms of this Contract applicable to the portion of Services performed by them. If requested by AUTHORITY, CONSULTANT shall furnish AUTHORITY a copy of the proposed subcontract for AUTHORITY's approval of the terms and conditions thereof and shall not execute such subcontract until AUTHORITY has approved such terms and conditions. AUTHORITY approval shall not be unreasonably withheld.
- 25.3 Approval by AUTHORITY of any Services to be subcontracted and the subcontractor to perform said Services will not relieve CONSULTANT of any responsibility or liability in regard to the acceptable and complete performance of said Services.
- 25.4 Any substitution of subcontractors must be approved in writing by AUTHORITY's Contract Manager.



## **Article 26      Inspection and Access**

AUTHORITY shall at all times have access during normal business hours to CONSULTANT's operations and products wherever they are in preparation or progress, and CONSULTANT shall provide sufficient, safe, and proper facilities for such access and inspection thereof. Inspection or lack of inspection by AUTHORITY, shall not be deemed to be a waiver of any of their rights to require CONSULTANT to comply with the Contract or to subsequently reject unsatisfactory Services or products.

## **Article 27      Independent Contractor**

CONSULTANT is and shall be at all times an independent contractor. Accordingly, all Services provided by CONSULTANT shall be done and performed by CONSULTANT under the sole supervision, direction and control of CONSULTANT. AUTHORITY shall rely on CONSULTANT for results only, and shall have no right at any time to direct or supervise CONSULTANT or CONSULTANT's employees in the performance of Services or as to the manner, means and methods by which Services are performed. All workers furnished by CONSULTANT pursuant to this Contract, and all representatives of CONSULTANT, shall be and remain the employees or agents of CONSULTANT or of CONSULTANT's subcontractor(s) at all times, and shall not at any time or for any purpose whatsoever be considered employees or agents of AUTHORITY.

## **Article 28      Precedence**

28.1    The Contract documents consist of these General Terms and Conditions and Attachment "A", Scope of Services, Attachment "B", Billing Rate Schedule, CONSULTANT's Statement of Qualifications and AUTHORITY's Request for Qualifications which are incorporated herein by reference.

28.2    The following order of precedence shall apply:

- 28.2.1    This Contract, its General Terms and Conditions, and Attachments
- 28.2.2    CONSULTANT's Statement of Qualifications
- 28.2.3    AUTHORITY's Request for Qualifications

28.3    In the event of an express conflict between the documents listed in Article 28.2, or between any other documents which are a part of the Contract, CONSULTANT shall notify AUTHORITY immediately and shall comply with AUTHORITY's resolution of the conflict.

## **Article 29      Communications and Notices**

29.1    Any and all notices permitted or required to be given hereunder shall be deemed duly given (a) upon actual delivery, if delivery is personally

made; or (b) upon delivery into the United States Mail if delivery is by postage paid certified mail (return receipt requested), fax or private courier. Each such notice shall be sent to the respective party at the address indicated below or to any other address as the respective parties may designate from time to time by a notice given in accordance with this Article. A change in address may be made by notifying the other party in writing.

**For CONSULTANT:**

Name: DMJM+HARRIS, Inc.  
Address: 1131 W. Sixth St., Suite 350  
Ontario, CA 91762

Attn: Mario Montes  
Phone: (909) 933-5225 x225  
Fax: (909) 933-5228

**For AUTHORITY:**

Name: San Bernardino Associated Governments  
Address: 1170 W. 3<sup>rd</sup> Street, 2<sup>nd</sup> Floor  
San Bernardino, CA 92410-1715  
Attn: Mr. Garry Cohoe  
Phone: (909) 884-8276  
Fax: (909) 885-4407

- 29.2 All communications pursuant to or in connection with this Contract shall be marked with AUTHORITY's Contract and job numbers.

**Article 30 Disputes**

- 30.1 In the event any dispute arises between the parties hereto under or in connection with this Contract (including but not limited to disputes over payments, reimbursements, costs, expenses, Services to be performed, Scope of Services and/or time of performance), the dispute shall be decided by the Contract Manager of AUTHORITY or his duly authorized representative within thirty (30) calendar days after notice thereof in writing which shall include a particular statement of the grounds of the dispute. If CONSULTANT does not agree with the decision, then CONSULTANT shall have thirty (30) calendar days after receipt of the decision in which to file a written appeal thereto with the Executive Director of AUTHORITY. If the Executive Director fails to resolve the dispute in a manner acceptable to CONSULTANT, then such appeal shall be decided by a court of competent jurisdiction.
- 30.2 During resolution of the dispute, CONSULTANT shall proceed with performance of this Contract with due diligence.

### **Article 31      Gratuities**

CONSULTANT, its employees, agents, or representatives shall not offer or give to an officer, official, or employee of AUTHORITY or Fluor Corporation, gifts, entertainment, payments, loans, or other gratuities to influence the award of a Contract or obtain favorable treatment under a Contract.

### **Article 32      Review and Acceptance**

- 32.1 All Services performed by CONSULTANT shall be subject to periodic review and approval by the representatives of AUTHORITY at any and all places where such performance may be carried on. Failure of AUTHORITY to make such review, or to discover defective Work, shall not prejudice the rights of AUTHORITY at the time of final acceptance. All Services performed by CONSULTANT shall be subject to periodic and final review and acceptance by AUTHORITY upon completion of all Services.
- 32.2 When Services have been completed and the products have been delivered to AUTHORITY, CONSULTANT shall so advise AUTHORITY in writing. AUTHORITY acceptance shall be based on those provisions set forth in the Scope of Services, Attachment "A". Within thirty (30) working days of receipt of such notice, AUTHORITY shall give CONSULTANT written notice of final acceptance or any Services and Work that have yet to be completed or which are unsatisfactory.
- 32.3 In the event AUTHORITY does not accept Services or Products as submitted then upon their subsequent completion, CONSULTANT shall again so notify AUTHORITY, and within the above specified time period AUTHORITY shall give CONSULTANT written notice of final acceptance or notice that the specified unfinished Services or Products have not yet been completed or are still not satisfactory. In the latter instance, the foregoing procedures with respect to such specified unfinished Services or Products will be repeated. Final acceptance shall not constitute a waiver or abandonment of any rights or remedies available to AUTHORITY under this Contract or by law.

### **Article 33      Safety**

CONSULTANT shall comply strictly with all local, municipal, state, and federal safety and health laws, orders and regulations applicable to CONSULTANT's operations in the performance of Services hereunder.

### **Article 34      Assignment**

CONSULTANT shall not assign this Contract wholly or in Part, voluntarily, by operation of law, or otherwise without first obtaining the written consent of AUTHORITY. Subject to the foregoing, the provisions of this Contract shall

extend to the benefit of and be binding upon the successors and assigns of the parties hereto.

#### **Article 35     Amendments**

This Contract may only be changed by an amendment duly executed by CONSULTANT and AUTHORITY except, that changes to the Contract to implement administrative changes such as approved changes in key personnel may be made by administrative amendment signed by CONSULTANT and AUTHORITY's Contracts Manager or other duly authorized representative.

#### **Article 36     Governing Law and Venue**

This Contract shall be subject to the laws and jurisdiction of the State of California. The parties acknowledge and agree that this Contract was entered into and intended to be performed in whole or substantial part in San Bernardino County, California. The parties agree that the venue for any action or claim brought by any party to this Contract will be the Central District of San Bernardino County. Each party hereby waives any law or rule of court that would allow them to request or demand a change of venue. If any action or claim concerning this Contract is brought by any third party, the parties hereto agree to use their best efforts to obtain a change of venue to the Central District of San Bernardino County.

#### **Article 37     Suspension of Services**

37.1 AUTHORITY may at any time, and from time to time, by written Notice ("Suspension of Services Order") to CONSULTANT, suspend further performance of Services by CONSULTANT. Said Suspension of Services Order shall specify the date of suspension and the estimated duration of the suspension. Upon receiving any such Suspension of Services Order, CONSULTANT shall promptly suspend further performance of Services to the extent specified, and during the period of such suspension shall properly care for and protect all Services in progress. Such suspensions shall not exceed more than one hundred twenty (120) consecutive calendar days each, nor aggregate more than one hundred eighty (180) calendar days; and, if they do, CONSULTANT may, if it so elects by notifying AUTHORITY in writing, consider that this Contract has been terminated for convenience of AUTHORITY. If the Contract has not been so terminated by CONSULTANT, then AUTHORITY may at any time withdraw the Suspension of Services Order as to all or part of the suspended Services by written notice to CONSULTANT specifying the effective date and scope of withdrawal, and CONSULTANT shall resume diligent performance of Services for which the suspension is withdrawn on the specified effective date of withdrawal.

37.2 If CONSULTANT believes that any such suspension or withdrawal of suspension justifies modification of the Contract compensation, CONSULTANT may request additional compensation and

CONSULTANT and AUTHORITY will attempt to negotiate a mutually acceptable change in compensation and amend the Contract accordingly. If CONSULTANT and AUTHORITY are unable to agree on a change in compensation, CONSULTANT may request adjustments to either the Contract amount or the scheduled time for performance in accordance with Article 20, Claims herein. In no event shall CONSULTANT be entitled to any prospective profits or any damages because of such suspension.

**Article 38      Contingent Fee**

The CONSULTANT warrants, by execution of this Contract, that no person or selling agency has been employed or retained to solicit or secure this Contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the CONSULTANT for the purpose of securing business. For breach or violation of this warranty, AUTHORITY has the right to annul this Contract without liability, pay only for the value of Services actually performed, or in its discretion, to deduct from the Contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

**Article 39      Location of Performance**

NOT USED

**Article 40      Entire Document**

- 40.1 This Contract and its attachments constitute the sole and only agreement governing Services and supersedes any prior understandings, written or oral, between the parties respecting the within subject matter. All previous proposals, offers, and other communications, written or oral, relative to this Contract, are superseded except to the extent that they have been incorporated into this Contract.
- 40.2 No agent, employee or representative of AUTHORITY has any authority to bind AUTHORITY to any affirmation, representation or warranty outside of, or in conflict with, the stated terms of this Contract, and CONSULTANT hereby stipulates that it has not relied, and will not rely, on same.
- 40.3 As this Contract was jointly prepared by both parties, the language in all parts of this Contract will be construed, in all cases, according to its fair meaning, and not for or against either party.

**Article 41     Attorney's Fees**

If any legal action is instituted to enforce or declare any party's rights hereunder, each party, including the prevailing party, must bear its own costs and attorneys' fees. This paragraph shall not apply to those costs and attorneys' fees directly arising from any third party legal action against a party hereto and payable under Article 22, Indemnity.

IN WITNESS WHEREOF, the parties hereto have executed this Contract on the day and year below written, but effective as of the day and year first set forth above.

**DMJM+HARRIS, Inc.**

By: \_\_\_\_\_

Date: \_\_\_\_\_

**San Bernardino Associated Governments**

By: \_\_\_\_\_

Gary C. Ovitt, President  
SANBAG Board of Directors

Date: \_\_\_\_\_

**APPROVED AS TO LEGAL FORM:**

By: \_\_\_\_\_

Jean-Rene Basle  
SANBAG Counsel

**ATTACHMENT "A"**

**Scope of Services**

**by and between**

**San Bernardino Associated Governments/San Bernardino  
County Transportation Authority**

**and**

**DMJM+HARRIS, Inc.**

**for**

**Construction Support Services**

**for**

**I-215 Segments 1 and 2**

## **TABLE OF CONTENTS**

### **100    GENERAL**

- 110    OVERVIEW
- 120    PROJECT LOCATION and DESCRIPTION

### **200    APPLICABLE STANDARDS**

### **300    SERVICES PERFORMED BY CONSULTANT**

### **400    NOT USED**

### **500    NOT USED**

### **600    ADMINISTRATION**

- 610    SANBAG PROJECT MANAGEMENT and ADMINISTRATION
- 620    CONSULTANT PROJECT MANAGEMENT and ADMINISTRATION
- 630    PROJECT CONTROLS
- 640    QUALITY ASSURANCE
- 650    REPRODUCTION SERVICES



## SCOPE OF SERVICES

### **100 GENERAL**

#### **110 Overview**

The San Bernardino Associated Governments (SANBAG), in cooperation with the California State Department of Transportation (CALTRANS), will utilize the services of CONSULTANT to perform Construction Support Services for a freeway project in San Bernardino County, described in Section 120.

Coordination of CONSULTANT and SANBAG will be accomplished through a CONSULTANT Project Manager and a SANBAG Contract Manager or his designee.

The SANBAG Contract Manager for this Contract shall be:

Mr. Garry Cohoe  
Director of Freeway Construction

CONSULTANT shall be required to perform the professional and technical engineering services necessary to perform the services.

#### **120 Project Location and Description**

This corridor project proposes to reconstruct a freeway, namely Interstate 215, from Interstate 10 to the SR 30/210 interchange. The project will include the addition of an HOV lane and mixed flow lane in each direction, reconfiguration of freeway interchanges, new and widened bridges, street/road improvements, and drainage facilities.

The total corridor project is divided into four segments and an early bridge project for project management, pricing, development, and reporting purposes. This Scope of Services will cover construction support services and related deliverables for the Segments 1 and 2 combined project. This project will utilize Plans and Specifications prepared by CONSULTANT, herein referred to as the Project.

### **200 APPLICABLE STANDARDS**

As-built plans shall be prepared in accordance with CALTRANS regulations, policies, procedures, manuals, and standards including compliance with Federal Highway Administration (FHWA) requirements.

### 300 SERVICES PROVIDED BY CONSULTANT

CONSULTANT shall be responsible for the Services outlined in this Scope of Services. CONSULTANT services shall conform to the standards, criteria, and requirements of this Scope of Services.

- A. CONSULTANT shall carry out the instructions as received from SANBAG's Contract Manager, or his designee, and shall cooperate with CALTRANS, other agencies, and other consultants providing Services for the Project.
- B. It is not the intent of the foregoing paragraph to relieve CONSULTANT of professional responsibility during the performance of this Scope of Services. In those instances where CONSULTANT believes a better design, or solution to a problem is possible, CONSULTANT shall promptly notify SANBAG's Contract Manager of these concerns, together with reasons therefor.
- C. CONSULTANT shall coordinate its Services with other consultant(s) and contractors in support of the Project or related projects. Any problems or conflicts shall be brought to the immediate attention of SANBAG.
- D. At the completion of this Scope of Services all files and correspondence relating to the Project shall be turned over to SANBAG. This includes all working data, field data, and background information used in creating the deliverables listed in the Scope of Services.
- E. CONSULTANT shall obtain, at its expense, all applicable CALTRANS Manuals and Standard Plans.
- F. SANBAG will be responsible for all construction bidding procedures. In the event that items requiring interpretation in the drawings or specifications are discovered during the bidding period, said items shall be analyzed by CONSULTANT for decision by SANBAG as to the proper procedure required. Corrective action will be in the form of an addendum prepared by CONSULTANT and issued by SANBAG, or, by a covering change order after the award of the construction Contract. CONSULTANT will also be available on an as-needed basis for final preparation of bid documents-including addressing any final updates or addressing comments from review agencies, addressing bid questions, producing bid document addenda, and other preconstruction activities as needed.
- G. Provisions of the Construction Support Services are not intended to and will not in any way create a contractual relationship between CONSULTANT and the construction contractor. The provisions are not intended to and shall not be construed as making CONSULTANT responsible for the failure of the construction contractor to perform the work in accordance with the Contract documents or for the construction means, methods or techniques procedures sequences or safety procedures employed by the construction contractor in the performance of the work.

- H. CONSULTANT shall be required to furnish all necessary additional drawings for corrections and change orders required by errors and/or omissions of CONSULTANT. Such drawings will be requested in writing from CONSULTANT by SANBAG and shall be at no additional cost to SANBAG. All original tracing(s) of the drawings and Contract wording for change orders shall be submitted to SANBAG for distribution.
- I. CONSULTANT may be required to attend a Partnering workshop with SANBAG and the construction contractor. This workshop will be at the request of the contractor.
- J. CONSULTANT may be requested to prepare any addenda required to clarify the work included in the Contract documents. Addenda may be based on site inspection, or questions developed in the pre-bid conference, or conditions discovered by bidders during the bid period.
- K. CONSULTANT shall be available to respond to questions in the field that may arise relative to the plans, details, or special provisions during construction.
- L. CONSULTANT shall be available to visit the job site for on-site review of construction, or to resolve any discrepancies in the Contract documents. CONSULTANT shall bring to the attention of the SANBAG Resident Engineer any defects or deficiencies in the work which CONSULTANT may observe. CONSULTANT shall have no authority to issue instructions on behalf of either SANBAG. All construction agreements are between SANBAG and its construction contractor.
- M. CONSULTANT shall review all submittal and shop drawings submitted by the resident engineer and the Caltrans Documents unit. CONSULTANT shall review submittals within the durations listed below. The durations are based on those called for in the Standard Specifications and Special Provisions for the particular type of document being submitted, less the following time period to account for transmittance of documents:
- One (1) day per week shall be deducted from review periods specified as 1 week or more in the Standard Specifications and Special Provisions.
  - One (1) day shall be deducted from review periods specified to be less than 1 week in the Standard Specifications and Special Provisions.
- Contract change order reviews shall be completed within three working days of receipt by the CONSULTANT for typical change order requests. Additional review time may be allotted for major change order requests.
- N. CONSULTANT shall appoint a responsible member of the firm to be the contact person for all construction support services. That person should be continually available during the course of construction for review and updating of design plans.
- O. CONSULTANT shall make every reasonable effort to process any material presented for review in a prompt manner.

- P. Upon completion of construction CONSULTANT shall be required to prepare and deliver to SANBAG the final "As-Builts" utilizing information provided by the SANBAG Resident Engineer. Preparation of microfilm of the "As-Builts" is not included in this task.
- Q. Drawings and amendments, required due to actions of SANBAG/CALTRANS, which are beyond the scope of CONSULTANT responsibilities, shall be considered extra services.
- R. Accept as required herein, the Consultant and Consultant's subconsultants shall have no responsibility for the discovery, presence, handling, removal, disposal or exposure of persons to hazardous materials in any form at the project site, including but not limited to asbestos, asbestos products, mold, polychlorinated biphenyl (PCB) or other toxic substances. Provided that Consultant shall advise Client in the event it becomes aware of the presence of any hazardous materials not otherwise indicated in the information provided by Client to Consultant.
- S. Notwithstanding anything in this Agreement, Consultant shall not have control or charge of and shall not be responsible for construction means, methods, techniques, sequences or procedures, or for safety measures, precautions and programs including enforcement of Federal and State safety requirements, in connection with construction work performed by SANBAG's construction contractors.

**400 NOT USED**

**500 NOT USED**

**600 ADMINISTRATION**

**610 SANBAG Project Management and Administration**

As part of their design management activities SANBAG shall:

- A. Conduct ongoing reviews of CONSULTANT progress in performing the work and furnish technical comments in a timely manner.
- B. Review CONSULTANT correspondence as needed.
- C. Coordinate the distribution of public information.
- D. Provide a focal-point contact for all questions, requests, and submittals.
- F. Review Project Control documents (including subconsultants) submitted by CONSULTANT to ensure their understanding of the level of information required, reporting procedures, report cycle, and the intended use of each.
- G. Receive and review progress reports from CONSULTANT and incorporate the

data presented in their Project Control System.

- I. Review with CONSULTANT, requests for change orders and/or extensions of time when such requests are determined to be necessary.
- J. Have final review and approval over all contractual payments and changes.

#### **620 CONSULTANT Project Management and Administration**

- A. CONSULTANT's design management activities include, but are not limited to:
  - 1. Establishing, furnishing, and maintaining suitable office facilities to serve as the Contract office for the duration of the Contract.
  - 2. Maintaining an adequate staff of qualified support personnel to perform the work necessary to complete the Project.
  - 3. Establishing internal accounting methods and procedures acceptable to SANBAG for documenting and monitoring Contract costs.
  - 4. Providing cost-to-date, schedule, progress, staffing, and related data to SANBAG as a part of the regular progress and payment process.
- B. CONSULTANT's work shall be performed and/or directed by those key personnel identified in their proposal. Any changes in the indicated key personnel shall be subject to prior review and approval by SANBAG in writing. Any change in CONSULTANT's officer-in-charge of the Services, as described in the General Terms and Conditions of this Contract, shall be subject to prior review and approval by SANBAG.
- C. Due to the nature and scope of the required services, it may be desirable for the CONSULTANT to subcontract portions of the Services. Adding Subconsultants to the original proposal team must be approved in writing by SANBAG prior to initiation of any Services. The volume of Services performed by the subcontractors shall not exceed 49 percent of the total Contract value. Throughout this effort CONSULTANT shall be the single source of contact and management of all subcontractors. Subcontractor management will include the coordination time required for all aspects of the Project.
- D. CONSULTANT shall provide to SANBAG copies of all written correspondence between CONSULTANT and any party pertaining specifically to the Project. Copies shall be furnished within five calendar days of receipt of said correspondence from any party, or five calendar days prior to mailing of correspondence to any party for review.
- E. CONSULTANT shall give written notice to SANBAG within seven (7)

working days after CONSULTANT knows or should know of any cause or condition which might, under reasonable foreseeable circumstances, result in delay for which CONSULTANT may request an extension of time to complete the Services.

### **630 Project Controls**

- A. As part of the Project Controls effort CONSULTANT shall at the introductory meeting, present SANBAG with samples of their proposed project control documents for SANBAG's review.
- B. As the Contract work progresses, CONSULTANT may discover the need to change the schedule to improve productivity or accommodate new or changed conditions. Any proposed change to the schedule shall be presented to SANBAG for review and validation prior to incorporation into the schedule.

### **640 Quality Assurance**

CONSULTANT has total responsibility for the accuracy and completeness of the plans, calculations, and related documents furnished under this Scope of Services.


### **650 Reproduction Services**

CONSULTANT shall provide the reproduction services required for the projects inclusive of the number of drawings to be delivered for the submittal tasks outlined in this Scope of Services.

**CONTRACT CO9100 ATTACHMENT B**

**COST AND PRICE ANALYSIS**

**SAN BERNARDINO ASSOCIATED GOVERNMENTS**

<b>NAME OF CONSULTANT</b>		<b>TITLE OF PROJECT</b>		
<b>DMJM+HARRIS Inc. dba AECOM</b>		<b>I-215 Segment 1+2 Construction Support</b>		
<b>Detail Description</b>	<b>Estimated Hours</b>	<b>(Average) Rate/Hour</b>	<b>Total Estimated Cost (\$)</b>	
<b>1. DIRECT LABOR (Specify)*</b>				
PROJECT MANAGER/TECHNICAL DIRECTOR	100	\$85.48	8,547.68	
PRINCIPAL/PROJECT ENGINEER	250	\$63.01	15,751.97	
ENGINEER III	400	\$48.39	19,355.49	
ENGINEER II	650	\$39.79	25,863.00	
ENGINEER I	700	\$34.10	23,870.23	
PRINCIPAL BRIDGE ENGINEER	40	\$63.95	2,557.80	
SENIOR BRIDGE ENGINEER/ENGINEER IV	200	\$59.44	11,887.16	
CADD MANAGER	80	\$47.25	3,780.25	
PROJECT CONTROLS	40	\$57.14	2,285.70	
ADMINISTRATIVE ASSISTANT	305	\$25.36	7,734.04	
<b>*Assumes 2 yrs of escalation at 5% per year</b>	<b>TOTAL</b>	2,765	<b>\$121,633.31</b>	
<b>2. INDIRECT COSTS (Overhead,G&amp;A-specify)</b>	<b>Burden Rate</b>	<b>X Base =</b>	<b>Burden (\$)</b>	
	150.00%	\$121,633.31	\$182,449.97	<b>\$182,449.97</b>
<b>3. TOTAL DIRECT LABOR AND INDIRECT COSTS (Sum of lines 1 and 2)</b>				
				<b>\$304,083.28</b>
<b>4. FIXED FEE OR PROFIT (Specify, applies to line 3 only)</b>	<b>Percent</b>	<b>X Base =</b>	<b>Fee (\$)</b>	
	10.00%	\$304,083.28	\$30,408.33	<b>\$30,408.33</b>
<b>TOTAL</b>				<b>\$30,408.33</b>
<b>5. OTHER DIRECT COSTS</b>				
Transportation/Travel				\$1,508.00
Copying/Binding/printing/shipping				\$1,500.00
Lim & Nascimento				\$40,000.00
Associated Engineers				\$5,000.00
Earth Mechanics				\$5,000.00
Kleinfelder				\$5,000.00
LIN Consultants				\$5,000.00
STB Landscape				\$2,500.00
<b>6. TOTAL CONTRACT COST (Sum of lines 3, 4 and 5)</b>				<b>\$400,000</b>
<b>DATE</b>				
October 28, 2008				

- San Bernardino County Transportation Commission ■ San Bernardino County Transportation Authority  
■ San Bernardino County Congestion Management Agency ■ Service Authority for Freeway Emergencies

## *Minute Action*

AGENDA ITEM: 9

**Date:** November 13, 2008

**Subject:** Amendment No. 1 to Construction Cooperative Agreement No. 08-164 (District Agreement No. 8-1322) with Caltrans and the City of Rialto for Interstate 10/Riverside Avenue Interchange Project.

**Recommendation:\*** Approve Amendment No. 1 to Cooperative Agreement No. 08-164 with Caltrans and the City of Rialto for the Interstate-10/Riverside Avenue Interchange Project construction activities.

**Background:** **This is an amendment to an existing cooperative agreement.** Under State law, SANBAG and Caltrans are required to enter into cooperative agreements for all phases of a project. The Board approved the original construction cooperative agreement between SANBAG, City of Rialto, and Caltrans at its June 4, 2008 meeting.

The California Transportation Commission approved \$14,097,000 from Trade Corridor Improvement Fund (TCIF) toward construction of this project in April 2008. The financial exhibit of the original cooperative agreement did not include the TCIF funds. Caltrans later determined that the TCIF funds must be made a part of the financial exhibit to allow reimbursement. Furthermore, an error was

\*

*Approved*  
*Major Projects Committee*

*Date:* November 13, 2008

*Moved:* *Second:*

*In Favor:* *Opposed:* *Abstained:*

*Witnessed:* \_\_\_\_\_



noticed in project postmiles that identify the limits of the project and has been corrected in this amendment.

***Financial Impact:*** No new financial impact to SANBAG is associated with this action.

***Reviewed By:*** This item will be reviewed by the Major Projects Committee on November 13, 2008. SANBAG Counsel has reviewed and approved the agreement as to form.

***Responsible Staff:*** Garry Cohoe, Director of Freeway Construction

**SANBAG Contract No. C08-164-01**

by and between

San Bernardino County Transportation Authority

and

California Department of Transportation and City of Rialto

for

I-10 Riverside Interchange Construction Cooperative Agreement**FOR ACCOUNTING PURPOSES ONLY**☐ PayableVendor Contract # 8-1322

Retention:

☐ Original☐ Receivable

Vendor ID \_\_\_\_\_

☐ Yes \_\_\_\_\_ % ☒ No☒ Amendment

Notes:

Original Contract: \$ 0Previous Amendments Total: \$ 0Previous Amendments Contingency Total: \$ 0Contingency Amount: \$ 0Current Amendment: \$ 0Current Amendment Contingency: \$ 0

Contingency Amount requires specific authorization by Task Manager prior to release.

**Contract TOTAL →** \$ 0

↓ Please include funding allocation for the original contract or the amendment.

<u>Task</u>	<u>Cost Code</u>	<u>Funding Sources</u>	<u>Grant ID</u>	<u>Amounts</u>
_____	_____	_____	_____	\$ _____
_____	_____	_____	_____	\$ _____
_____	_____	_____	_____	\$ _____
_____	_____	_____	_____	\$ _____

Original Board Approved Contract Date: 06/04/08 Contract Start: 06/04/08 Contract End: 12/31/14New Amend. Approval (Board) Date: 12/03/08 Amend. Start: 12/03/08 Amend. End: 12/31/14**If this is a multi-year contract/amendment, please allocate budget authority among approved budget authority and future fiscal year(s)-unbudgeted obligations:****Approved Budget Authority →**Fiscal Year: \_\_\_\_\_  
\$ \_\_\_\_\_**Future Fiscal Year(s) –  
Unbudgeted Obligation →**

\$ \_\_\_\_\_

Is this consistent with the adopted budget? ☐ Yes ☐ No

If yes, which Task includes budget authority? \_\_\_\_\_

If no, has the budget amendment been submitted? ☐ Yes ☐ No**CONTRACT MANAGEMENT****Please mark an "X" next to all that apply:**☒ Intergovernmental☐ Private☐ Non-Local☐ Local☐ Partly LocalDisadvantaged Business Enterprise: ☐ No ☐ Yes \_\_\_\_\_ %Task Manager: **Garry Cohoe**Contract Manager: **Abunnasr Husain**

Task Manager Signature

Date

Contract Manager Signature

Date

Chief Financial Officer Signature

Date

Filename: C0816401.docx

08-SBd-10-PM 18.7/20.8  
I-10/Riverside Avenue  
Reconstruct Interchange  
And ramp improvements  
EA 422304  
District Agreement No. 8-1322 A/1

## **AMENDMENT NO. 1 TO AGREEMENT NO. 8-1322**

This AMENDMENT NO. 1 to AGREEMENT NO. 8-1322, entered into effective on \_\_\_\_\_, 2008, is between the STATE OF CALIFORNIA, acting by and through its Department of Transportation, referred to herein as "STATE," and the

SAN BERNARDINO COUNTY  
TRANSPORTATION AUTHORITY, a public  
entity referred to herein as "AUTHORITY"

and

CITY OF RIALTO, a body politic and a municipal  
corporation of the State of California, referred to  
herein as "CITY."

### **RECITALS**

1. STATE, AUTHORITY, and CITY, pursuant to Streets and Highways Code sections 114 and 130, are authorized to enter into a Cooperative Agreement for improvements to State Highways System (SHS) within CITY's jurisdiction.
2. The parties hereto entered into an Agreement No. 8-1322, on July 17, 2008, said Agreement defining the terms and condition of project to reconstruct interchange and ramp improvements at Interstate 10 (I-10)/Riverside Avenue in the City of Rialto, referred to herein as "PROJECT."
3. It has been determined that the Post Miles on the original agreement were incorrect. The correct PROJECT Post Miles are 18.7/20.8. Also on April 10, 2008, Resolution TCIP-P-0708 programmed \$14,097,000 from the Trade Corridor Improvement Funds (TCIF) as part of the PROJECT construction capital.
4. CITY agrees to be responsible for one hundred (100%) percent of all PROJECT construction capital and support costs (of which a portion will be funded out of STATE's Transportation Improvement Program/Regional Improvement Program [STIP/RIP]

funding source in the amount of \$1,452,000 and TCIF funding source in the amount of \$14,097,000). The PROJECT cost estimate is \$28,200,000 as shown on Exhibit A, attached hereto and made a part of this Agreement. If it becomes necessary for an increase in PROJECT funding, said increase will be paid in full by CITY.

5. Revised Exhibit A and B will, by this Amendment, be attached and made a part of Agreement 8-1322.

**IT IS THEREFORE MUTUALLY AGREED**

1. SECTION I, "CITY AGREES," Article (1) of the original Agreement is replaced in its entirety to read as follows:

"To be responsible for one hundred (100%) percent of all PROJECT capital and support costs (of which a portion will be funded out of STATE's STIP/RIP funding source in the amount of \$1,452,000 and TCIF funding source in the amount of \$14,097,000) including, but not limited to, "State-furnished material," and source inspection. If it becomes necessary for an increase in PROJECT funding, said increase will be paid in full by CITY."

2. SECTION I, "CITY AGREES," Article (7) of the original Agreement is replaced in its entirety to read as follows:

"To submit an initial billing in the amount of \$81,000 to STATE within thirty (30) days upon award of construction contract to be paid from STIP/RIP and TCIF funds, which is to be used for a portion of construction capital costs.

Thereafter, to prepare and submit to STATE monthly billing statements for estimated expenditures for construction capital one (1) month in advance as construction of PROJECT proceeds up to a maximum amount of \$15,549,000."

3. SECTION III, "STATE AGREES," Article (7) of the original Agreement is replaced in its entirety to read as follows:

To allocate \$1,452,000 from STATE's STIP/RIP funding source to PROJECT. The California Transportation Commission (CTC) programmed these funds at the June 6, 2007, meeting for construction capital and support services for PROJECT. Also CTC allocated \$14,097,000 from TCIF funding source on April 10, 2008.

4. SECTION III, "STATE AGREES," Article (8) of the original Agreement is replaced in its entirety to read as follows:

To deposit with CITY within twenty-five (25) days of receipt of billing therefore (which billing will be forwarded immediately following upon award of construction contract),

the amount of \$81,000. Said figure represents STATE's initial deposit for one (1) month estimated construction capital required for PROJECT. STATE's total obligation for said PROJECT costs, using STIP/RIP and TCIF funds, which is to be used for a portion of construction capital cost, shall not exceed the amount of \$15,549,000.

5. Exhibit A and B of the original Agreement are hereby replaced in their entirety by the attached revised Financial Letter, Exhibit A and a Contribution Letter, Exhibit B dated August 6, 2008.
6. The Post Miles shown on the original Agreement are hereby corrected to read Post Miles 18.7/20.8.
7. The other terms and conditions of said Agreement No. 8-1322 shall remain in full force and effect
8. This Amendment to Agreement is hereby deemed to be a part of Agreement No. 8-1322.

SIGNATURES ON FOLLOWING PAGES:

STATE OF CALIFORNIA  
DEPARTMENT OF TRANSPORTATION

WILL KEMPTON  
Director

By: \_\_\_\_\_  
RAYMOND W. WOLFE, PhD, ME, CE  
District Director

APPROVED AS TO FORM AND  
PROCEDURE:

By: \_\_\_\_\_  
Attorney,  
Department of Transportation

CERTIFIED AS TO FUNDS:

By: \_\_\_\_\_  
District Budget Manager

CERTIFIED AS TO FINANCIAL  
TERMS AND POLICIES:

By: \_\_\_\_\_  
Accounting Administrator

SAN BERNARDINO COUNTY  
TRANSPORTATION AUTHORITY

By: \_\_\_\_\_  
GARY C. OVITT  
President, Board of Directors

Attest: \_\_\_\_\_  
VICKI WATSON  
Board Secretary

APPROVED AS TO FORM AND  
PROCEDURE:

By: \_\_\_\_\_  
JEAN-RENE BASLE  
AUTHORITY's Counsel

CITY OF RIALTO

By: \_\_\_\_\_  
Mayor

Attest: \_\_\_\_\_  
CITY Clerk

APPROVED AS TO FORM AND  
PROCEDURE:

By: \_\_\_\_\_  
CITY Counsel



**DEPARTMENT OF TRANSPORTATION  
DIVISION OF ACCOUNTING  
LOCAL PROGRAM ACCOUNTING BRANCH**

Date:	8/6/2008
EA # (Current Phase):	422304
Local Programs Project #:	08-412254L
Contributor Agency:	Rialto
Agreement #:	8-1322 A/1

**8-1322 A/1**

123

**Contribution Letter for Locally Administered Projects**

Date 8/6/2008  
 Local Agency Rialto  
 Agreement No. 08-1322 A/1  
 State E. A. No. 08-SBd-422304  
 Amendment No.

Local - Federal Fund Type	Local - Federal Contributor Amount	Reimbursement Ratio	Match Fund Type	Match Amount	Current Total	Previous Total	Proposed Change
DEMO	\$1,600,000	80.00%	Local	\$400,000	\$2,000,000		
IMD	\$2,857,050	90.00%	Local	\$317,450	\$3,174,500		
STIP	\$1,452,000	100.00%	N/A	N/A	\$1,452,000		
TCIF	\$14,097,000	100.00%	N/A	N/A	\$14,097,000		

Comments:

Notes:

**EXHIBIT "B"**

## *Minute Action*

### AGENDA ITEM: 10

**Date:** November 13, 2008

**Subject:** Construction and Maintenance Agreements with Burlington Northern, Santa Fe Railroad (BNSF) and Caltrans for the Interstate 215 Segments 1 and 2 Project

- Recommendation:**\*
1. Approve Agreement No. C09109 with BNSF and Caltrans to construct a new bridge over existing BNSF tracks at Ninth Street. TN 83810000.
  2. Approve Agreement No. C09110 with BNSF and Caltrans to construct a new bridge over existing BNSF tracks at Baseline Street. TN 83810000.
  3. Approve Agreement No. C09111 with BNSF and Caltrans to construct a new bridge over existing BNSF tracks at 16th Street. TN 83810000.

**Background:** There are three new overcrossings over the reconstructed I-215 freeway in Segment 2 which SANBAG and Caltrans have designed and SANBAG will be constructing over both the existing freeway and BNSF tracks. This work is shown in Exhibit "A" of each of the three agreements and specified in the "Recitals" at the beginning of the agreements. These agreements specify that SANBAG will construct the new bridges and Caltrans will maintain them after completion of construction. These agreements also specify that all agencies will follow established procedures for work on and adjacent to the railroad as will all contractors

\*

*Approved*  
*Major Projects Committee*

*Date:* November 13, 2008

*Moved:* *Second:*

*In Favor:* *Opposed:* *Abstained:*

*Witnessed:* \_\_\_\_\_

and subcontractors and personnel from all these agencies/companies. This agreement also establishes coordination and contact information between the three agencies and their contractors, and details the rights and responsibilities of these parties both during and after construction.

Since this work is over existing, in service railroad tracks which are owned and operated by BNSF, flagging operations are required along the BNSF tracks during certain times of construction and personnel need to be available to coordinate railroad operations and construction operations. In addition, BNSF also requires inspectors to be present during certain construction activities above and adjacent to its tracks to insure that no activities could pose a hazard to railroad operations. A cost estimate of \$481,213, \$787,823, and \$787,823 for BNSF to provide these services as needed during construction for the I-215 Ninth Street, Baseline Street and 16<sup>th</sup> Street Overcrossings respectively is given in Exhibit "D" of these agreements. Since SANBAG is the lead agency administering the construction contract, SANBAG, in coordination with BNSF has estimated the number of days it will require flagging and inspection. These agreements also specify the acquisition of temporary construction and permanent easements that will be paid to BNSF for using some of their property during construction and for having a permanent expanded structure over their right of way. The acquisition costs for these easements is included in the right of way agreements and right of way budget and funding of this project previously approved by the Board.

***Financial Impact:*** The total estimated cost of these agreements for BNSF to provide flagging and inspection services is \$2,056,859 for the three bridges. These costs are included in the overall engineer's construction estimate for I-215, Segments 1 and 2 and are anticipated expenditures in FY 2009/2010 as construction will not start until then. The ultimate funding source for these agreements is anticipated to be State Corridor Mobility Improvement Account (CMIA) funding. TN 83810000

***Reviewed By:*** This item will be reviewed by the Major Projects Committee on November 13, 2008. SANBAG Counsel has reviewed and approved the agreement as to form.

***Responsible Staff:*** Garry Cohoe, Director of Freeway Construction

by and between

San Bernardino County Transportation Authority

and

California Department of Transportation and BNSF Railroad

for

Construction and Maintenance Agreement for I-215 Segment 2 Ninth Street Overhead

**FOR ACCOUNTING PURPOSES ONLY**

<input checked="" type="checkbox"/> Payable	Vendor Contract # _____	Retention:	<input checked="" type="checkbox"/> Original
<input type="checkbox"/> Receivable	Vendor ID _____	<input type="checkbox"/> Yes _____ % <input checked="" type="checkbox"/> No	<input type="checkbox"/> Amendment

**Notes:**

Original Contract:	\$ <u>481,213</u>	Previous Amendments Total:	\$ _____
Contingency Amount:	\$ _____	Previous Amendments Contingency Total:	\$ _____
		Current Amendment:	\$ _____
		Current Amendment Contingency:	\$ _____

Contingency Amount requires specific authorization by Task Manager prior to release.

**Contract TOTAL → \$ 481,213.00**

↓ Please include funding allocation for the original contract or the amendment.

Task	Cost Code	Funding Sources	Grant ID	Amounts
83810000	5553	CMIA	TBD	\$ <u>300,000</u>
83811000	5553	CMIA	TBD	\$ <u>181,213</u>
_____	_____	_____	_____	\$ _____
_____	_____	_____	_____	\$ _____

Original Board Approved Contract Date: <u>12/3/08</u>	Contract Start: <u>12/3/08</u>	Contract End: <u>12/3/13</u>
New Amend. Approval (Board) Date: _____	Amend. Start: _____	Amend. End: _____

If this is a multi-year contract/amendment, please allocate budget authority among approved budget authority and future fiscal year(s)-unbudgeted obligations:

Approved Budget Authority →	Fiscal Year: <u>08/09</u> \$ <u>0</u>	Future Fiscal Year(s) – Unbudgeted Obligation →	\$ <u>481,213</u>
-----------------------------	--	--	-------------------

Is this consistent with the adopted budget? ☒ Yes ☐ No

If yes, which Task includes budget authority? \_\_\_\_\_

If no, has the budget amendment been submitted? ☐ Yes ☒ No**CONTRACT MANAGEMENT**

Please mark an "X" next to all that apply:

☒ Intergovernmental    ☒ Private    ☐ Non-Local    ☐ Local    ☐ Partly Local
Disadvantaged Business Enterprise: ☐ No ☐ Yes \_\_\_\_\_ %Task Manager: Garry CohoeContract Manager: Dennis Saylor

Task Manager Signature

Date

Contract Manager Signature

Date

Chief Financial Officer Signature

Date

## OVERHEAD AGREEMENT

BNSF File No. 026113F  
Ninth Street Overhead  
U.S. D.O.T. No. 26113F

This Agreement ("**Agreement**"), is executed to be effective as of this \_\_\_\_\_ day of \_\_\_\_\_, 2008 ("**Effective Date**"), by and between BNSF RAILWAY COMPANY, a Delaware corporation ("**BNSF**"), and the STATE OF CALIFORNIA, acting through the Department of Transportation, hereinafter referred to as ("**STATE**") and the **SAN BERNARDINO ASSOCIATED GOVERNMENTS**, a body corporate and politic of the State of California, hereinafter referred to as ("**SANBAG**").

### RECITALS:

WHEREAS, BNSF owns and operates a line of railroad in and through the City of San Bernardino, County of San Bernardino, State of California;

WHEREAS, STATE and The Atchison, Topeka and Santa Fe Railway Company, predecessor in interest to BNSF, hereinafter referred to as ("**Santa Fe**"), entered into an agreement dated February 27, 1958, carried in BNSF's records as Contract No. CL-61878, ("**Original Agreement**") which provided for the construction and maintenance of five (5) grade separation structures comprising of Ninth Street, Baseline Street, 16<sup>th</sup> Street, Massachusetts Avenue, and 27<sup>th</sup> Street Overheads, over and across BNSF's rail corridor hereinafter referred to as ("**Rail Corridor**"), and over its tracks;

WHEREAS, this Agreement covers the demolition and reconstruction of the Ninth Street Overhead only;

WHEREAS, STATE and the San Bernardino Associated Governments hereinafter referred to as "SANBAG", propose to reconstruct Interstate Highway I-215, through the City of San Bernardino, in order to accommodate the construction of High Occupancy Vehicle (HOV) lanes involving the demolition and reconstruction of the Ninth Street Overhead by means of a 362.02 foot long 3-span cast in place prestressed concrete box girder on concrete columns and concrete abutments;

WHEREAS, STATE and SANBAG have entered into a Design Cooperative Agreement, dated September 3, 2008 providing for SANBAG's design for the reconstruction of the Segment 2 portion of the Interstate Highway I-215 reconstruction project, which includes the reconstruction of the Ninth Street Overhead.

WHEREAS, STATE and SANBAG will enter into a Construction Cooperative Agreement prior to the start of construction of the Project as described in Article I, Section 1 of this Agreement, that will provide for SANBAG's construction of the **Project** with STATE owning and maintaining the **Structure** as described in Article I, Section 1.

NOW, THEREFORE, in consideration of the mutual covenants and agreements of the parties contained herein, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

### **ARTICLE I – SCOPE OF WORK**

1. The term "**Project**" as used herein includes any and all work related to the removal of the existing Ninth Street Overhead and the construction of a replacement Ninth Street Overhead, (hereinafter referred to as the "**Structure**"), more particularly described on the Exhibit A attached hereto and incorporated herein, including, but not limited to, any and all changes to telephone, telegraph, signal and electrical lines and appurtenances, temporary and permanent track work, fencing, grading, alterations to or new construction of drainage facilities, preliminary and construction engineering and contract preparation.

## ARTICLE II – BNSF OBLIGATIONS

In consideration of the covenants of STATE and SANBAG set forth herein and the faithful performance thereof, BNSF agrees as follows:

1. Upon STATE's payment to BNSF of the sum of Four Thousand Four Hundred and Sixty-eight and No/100 DOLLARS (\$4,468.00), BNSF shall grant to SANBAG, its successors and assigns, upon and subject to the terms and conditions set forth in this Agreement, a temporary non-exclusive license (hereinafter called, "Temporary Construction License") to construct the Structure across or upon the portion of BNSF's Rail Corridor described further on Exhibit A, excepting and reserving BNSF's rights, and the rights of any others who have obtained, or may obtain, permission or authority from BNSF, to do the following:

- (a) Operate, maintain, renew and/or relocate any and all existing railroad track or tracks, wires, pipelines and other facilities of like character upon, over or under the surface of said rail corridor;
- (b) Construct, operate, maintain, renew and/or relocate upon said rail corridor, without limitation, such facilities as the BNSF may from time to time deem appropriate, provided such facilities do not materially interfere with STATE's use of the Structure;
- (c) Otherwise use or operate the Rail Corridor as BNSF may from time to time deem appropriate, provided such use or operations does not materially interfere with STATE's use of the Structure.

The Temporary Construction License shall be in the form attached hereto as Exhibit B and by this reference made a part hereof, and shall be for a term beginning on the authorized commencement date as set forth in Article III, Section 10 (c) (ii) and ending on the earlier of (i) completion of the Structure, or (ii) Sixty (60) months following the Effective Date of the Temporary Construction License. The Temporary Construction License and related rights to be given by BNSF to STATE and SANBAG shall be without warranty of title of any kind, express or implied, and no covenant of warranty of title will be implied from the use of any word or words therein contained. The Temporary Construction License shall be for the Project and for no other purpose. STATE acknowledges and agrees that STATE shall not have the right, under the Temporary Construction License, to use the Structure. In the event STATE or SANBAG is evicted by anyone owning, or claiming title to or any interest in said Rail Corridor, BNSF will not be liable to STATE or SANBAG for any damages, losses or any expenses of any nature whatsoever. The granting of similar rights to others, subsequent to the date of this Agreement, will not impair or interfere with the rights granted to STATE pursuant to the Temporary Construction License.

Upon payment to BNSF of the additional sum of Twenty Two Thousand Nine Hundred and Sixty-nine and No/100 DOLLARS (\$22,969.00), such payment to be made within thirty (30) days of the giving of the notice required pursuant to Article III, Section 13 of this Agreement, BNSF shall deliver to STATE, its successors and assigns, a perpetual easement to enter upon and use that portion of BNSF's Rail Corridor described therein as is necessary to use and maintain the Structure. The Easement shall be in the form attached hereto as Exhibit B-1 and by this reference made a part hereof.

2. BNSF will furnish all labor, materials, tools, and equipment for railroad work required for the construction of the Project, such railroad work and the estimated cost thereof being as shown on Exhibit D attached hereto and made a part hereof. In the event construction on the Project has not commenced within six (6) months following the Effective Date, BNSF may, in its sole and absolute discretion, revise the cost estimates set forth in said Exhibit D. In such event, the revised cost estimates will become a part of this Agreement as though originally set forth herein. Any item of work incidental to the items listed on Exhibit D not specifically mentioned therein may be included as a part of this Agreement upon written approval of SANBAG, which approval will not be unreasonably withheld. Construction of the Project will include the following principle elements of railroad work by BNSF:

- (a) Procurement of materials, equipment and supplies necessary for the railroad work;
- (b) Preliminary engineering, design, and contract preparation;

- (c) Furnishing of flagging services necessary for the safety of BNSF's property and the operation of its trains during construction of the Project as set forth in further detail on Exhibit C, attached to this Agreement and made a part hereof;
  - (d) Furnishing engineering and inspection as required in connection with the construction of the Project and;
  - (e) Providing a contract project coordinator, at SANBAG's expense, to serve as a project manager for the Project;
3. BNSF will do all railroad work set forth in Article II, Section 2 above on an actual cost basis, when BNSF, in its sole discretion, determines it is required by its labor agreements to perform such work with its own employees working under applicable collective bargaining agreements or by contractor(s) if necessary.
4. SANBAG agrees to reimburse BNSF for work of an emergency nature caused by SANBAG or SANBAG's contractor in connection with the Project which is reasonably necessary for the immediate restoration of railroad operations, or for the protection of persons or BNSF property. Such work may be performed by BNSF without prior approval of SANBAG and SANBAG agrees to fully reimburse BNSF for all such emergency work.
5. BNSF may charge SANBAG for insurance expenses, including self-insurance expenses, when such expenses cover the cost of Employer's Liability (including, without limitation, liability under the Federal Employer's Liability Act) in connection with the construction of the Project. Such charges will be considered part of the actual cost of the Project, regardless of the nature or amount of ultimate liability for injury, loss or death to BNSF's employees, if any.
6. During the construction of the Project, BNSF will send SANBAG progressive invoices detailing the costs of the railroad work performed by BNSF under this Agreement. Pursuant to the California Prompt Payment Act, CALIFORNIA CODES, GOVERNMENT CODE, SECTION 927-927.12, SANBAG must reimburse BNSF for completed force-account work within forty-five (45) calendar days from the date of SANBAG's receipt of the invoice for such work. Upon completion of the Project, BNSF will send SANBAG a detailed invoice of final costs, segregated as to labor and materials for each item in the recapitulation shown on Exhibit D. If SANBAG fails to make payment of a BNSF invoice within said forty-five (45) days, SANBAG shall pay a penalty at a rate of 1 percent above the rate accrued on June 30 of the prior year by the Pooled Money Investment Account, not to exceed a rate of 15 percent pursuant to Section 927.6 (b) of said Government Code.

### **ARTICLE III – SANBAG OBLIGATIONS**

In consideration of the covenants of STATE and BNSF set forth herein and the faithful performance thereof, SANBAG agrees as follows:

1. SANBAG shall furnish to BNSF and STATE plans and specifications for the Project together with calculations with the railroad clearances expressed in **English Units**. One complete reduced size 11" x 17" paper copy shall be submitted to BNSF's Assistant Director of Structural Engineering. A PDF copy of the plans and specifications should be sent to both BNSF'S Manager Public Projects and BNSF'S Assistant Director Structural Engineering. The PDF copy with a file size of two (2) megabytes or less should be sent via an email attachment. Should the PDF copy of the plans and specifications exceed two (2) megabytes, a CD (Compact Disk) of the plans and specifications should be sent via overnight mail service to both BNSF offices. The email and mailing addresses are included in Article V, Section 23. Sets of said plans shall be submitted to BNSF and STATE for approval prior to commencement of any construction. BNSF will give SANBAG final written approval of the plans and specifications substantially in the form of Exhibit E, attached to this Agreement and made a part hereof. Upon BNSF'S final written approval of the plans and specifications, said plans and specifications will become part of this Agreement and are hereby incorporated herein. Any approval of the plans and specifications by BNSF shall in no way obligate BNSF in any manner with respect to the finished product design and/or construction. Any approval by BNSF shall mean only that the plans and specifications meet BNSF standard specifications,



and such approval by BNSF shall not be deemed to mean that the plans and specifications or construction is structurally sound and appropriate or that such plans and specifications meet applicable regulations, laws, statutes or local ordinances and/or building codes.

2. SANBAG must provide for and maintain minimum vertical and horizontal clearances, as required and approved by BNSF as part of the plans and specifications for the Project.

3. SANBAG must make any and all arrangements for the installation or relocation of wire lines, pipe lines and other facilities owned by private persons, companies, corporations, political subdivisions or public utilities other than BNSF which may be necessary for the construction of the Project.

4. SANBAG must construct the Project as shown on the attached Exhibit A and do all work ("**SANBAG's Work**") provided for in the plans and specifications for the Project, except railroad work that will be performed by BNSF herein. SANBAG must furnish all labor, materials, tools and equipment for the performance of SANBAG's Work. The principal elements of SANBAG's Work are as follows:

- (a) Preliminary and final Engineering;
- (b) Demolition and removal of the existing Ninth Street Overhead;
- (c) Design and the Construction of the Structure;
- (d) All necessary grading and paving, including backfill of excavations and restoration of disturbed vegetation on BNSF's Rail Corridor;
- (e) Provide suitable drainage, both temporary and permanent;
- (f) Apply the D.O.T. Crossing Number 026113F in a conspicuous location on the Structure.
- (g) Job site cleanup including removal of all construction materials, concrete debris, surplus soil, refuse, contaminated soils, asphalt debris, litter and other waste materials to the satisfaction of BNSF;

5. SANBAG's Work must be performed by SANBAG or SANBAG's contractor in a manner that will not endanger or interfere with the safe and timely operations of BNSF and its facilities.

6. SANBAG must require its contractor(s) to notify BNSF's Roadmaster at least thirty (30) calendar days prior to requesting a BNSF flagman in accordance with the requirements of Exhibit C attached hereto. Additionally, SANBAG must require its contractor(s) to notify BNSF's Manager of Public Projects thirty (30) calendar days prior to commencing work on BNSF property or near BNSF tracks.

7. SANBAG or its contractor(s) shall submit one reduced size 11" x 17" paper copy, including calculations, expressed in **English Units** of the plans and specifications for proposed shoring, falsework, or cribbing to be used over, under, or adjacent to BNSF's tracks to BNSF's Assistant Director Structural Engineering. SANBAG or its contractor(s) shall submit a PDF copy of the plans and specifications for the proposed shoring, falsework, or cribbing to both BNSF's Manager Public Projects and BNSF's Assistant Director Structural Engineering. The PDF copy with a file size of two (2) megabytes or less should be sent via an email attachment. Should the PDF copy of the plans and specifications exceed two (2) megabytes, a CD (Compact Disk) of the plans and specifications should be sent via overnight mail service to both BNSF offices for approval. The email and mailing addresses are included in Article V, Section 23. The shoring, falsework or cribbing used by SANBAG's contractor shall comply with the BNSF Bridge Requirements set forth on Exhibit F, and BNSF's Instructions FOR PREPARATION OF DEMOLITION PLANS as set forth in Exhibit G with both Exhibits attached to this Agreement and incorporated herein, and all applicable requirements promulgated by state and federal agencies, departments, commissions and other legislative bodies.

Falsework shall be designed according to the State of California, Department of Transportation FALSEWORK MANUAL available at this Web Site:  
<http://www.dot.ca.gov/hq/esc/construction/manuals/Falsework/>.

8. SANBAG must include the following provisions in any contract with its contractor(s) performing work on said Project:

- (a) The Contractor is placed on notice that fiber optic, communication and other cable lines and systems (collectively, the "Lines") owned by various telecommunications companies may be buried on BNSF's property or Rail Corridor. The locations of these Lines have been included on the plans based on information from the telecommunications companies. The contractor will be responsible for contacting BNSF's Project Engineer at telephone number 909 386 4079 and/or the telecommunications companies and notifying them of any work that may damage these Lines or facilities and/or interfere with their service. The contractor must also mark all Lines shown on the plans or marked in the field in order to verify their locations. The contractor must also use all reasonable methods when working in the BNSF Rail Corridor or on BNSF property to determine if any other Lines (fiber optic, cable, communication or otherwise) may exist.
- (b) Failure to mark or identify these Lines will be sufficient cause for any BNSF Representative to stop construction at no cost to SANBAG or BNSF until these items are completed.
- (c) In addition to the liability terms contained elsewhere in this Agreement, the contractor hereby indemnifies, defends and holds harmless BNSF for, from and against all cost, liability, and expense whatsoever (including, without limitation, attorney's fees and court costs and expenses) arising out of or in any way contributed to by any act or omission of Contractor, its subcontractors, agents and/or employees that cause or in any way or degree contribute to (1) any damage to or destruction of any Lines by Contractor, and/or its subcontractors, agents and/or employees, on BNSF's property or within BNSF's Rail Corridor, (2) any injury to or death of any person employed by or on behalf of any telecommunications company, and/or its contractor, agents and/or employees, on BNSF's property or within BNSF's Rail Corridor, and/or (3) any claim or cause of action for alleged loss of profits or revenue by, or loss of service by a customer or user of such telecommunication company(ies). **THE LIABILITY ASSUMED BY CONTRACTOR WILL NOT BE AFFECTED BY THE FACT, IF IT IS A FACT, THAT THE DAMAGE, DESTRUCTION, INJURY, DEATH, CAUSE OF ACTION OR CLAIM WAS OCCASIONED BY OR CONTRIBUTED TO BY THE NEGLIGENCE OF BNSF, ITS AGENTS, SERVANTS, EMPLOYEES OR OTHERWISE, EXCEPT TO THE EXTENT THAT SUCH CLAIMS ARE PROXIMATELY CAUSED BY THE WILLFUL MISCONDUCT OR SOLE NEGLIGENCE OF BNSF.**
- (d) The Contractor will be responsible for the rearrangement of any facilities or Lines determined to interfere with the construction. The Contractor must cooperate fully with any telecommunications company(ies) in performing such rearrangements.

9. SANBAG must incorporate in each prime contract for construction of the Project, or the specifications therefore (i) the provisions set forth in Article III, Sections 5, 6, 7, 8, and 10; (ii) the provisions set forth in Article V, Sections 1, 2, 3, 4, 5, 6, 7, 11 and 12; and (iii) the provisions set forth in Exhibit C, Exhibit C-I, Exhibit F and Exhibit G, with the herein referenced Exhibits attached hereto and by reference made a part hereof.

10. Except as otherwise provided below in this Section 10, all construction work performed hereunder by SANBAG for the Project will be pursuant to a contract or contracts to be let by SANBAG, and all such contracts must include the following:

- (a) All work performed under such contract or contracts within the limits of BNSF's Rail Corridor must be performed in a good and workmanlike manner in accordance with plans and specifications approved by BNSF;

- (b) Changes or modifications during construction that affect safety or BNSF operations must be subject to BNSF's approval;
- (c) No work will be commenced within BNSF's Rail Corridor until each of the prime contractors employed in connection with said work must have (i) executed and delivered to BNSF a letter agreement in the form of Exhibit C-1, and (ii) delivered to and secured BNSF's approval of the required insurance; and
- (d) If it is in SANBAG's best interest, SANBAG may direct that the construction of the Project be done by day labor under the direction and control of SANBAG, or if at any time, in the opinion of SANBAG, the contractor has failed to prosecute with diligence the work specified in and by the terms of said contract, SANBAG may terminate its contract with the contractor and take control over the work and proceed to complete the same by day labor or by employing another contractor(s) provided; however, that any contractor(s) replacing the original contractor(s) must comply with the obligations in favor of BNSF set forth above and, provided further, that if such construction is performed by day labor, SANBAG will, at its expense, procure and maintain on behalf of BNSF the insurance required by Exhibit C-1.
- (e) To facilitate scheduling for the Project, SANBAG shall have its contractor give BNSF's Project Engineer at telephone number 909 386 4079 eight (8) weeks advance notice of the proposed times and dates for work windows. BNSF and SANBAG's contractor will establish mutually agreeable work windows for the Project. SANBAG shall inform its contractor that any request for work windows with less than eight (8) weeks advance notice will have a reduced probability of approval. BNSF has the right at any time to revise or change the work windows, due to train operations or service obligations. BNSF will not be responsible for any additional costs and expenses resulting from a change in work windows. Additional costs and expenses resulting from a change in work windows shall be accounted for in the contractor's expenses for the Project.
- (f) The plans and specifications for the Project must be in compliance with the Bridge Requirements set forth in Exhibit F and the INSTRUCTIONS FOR PREPARATION OF DEMOLITION PLANS set forth in Exhibit G, with both Exhibits attached to this Agreement and incorporated herein.

11. SANBAG must advise the BNSF Manager of Public Projects, in writing, of the completion date of the Project within thirty (30) days after such completion date. Additionally, SANBAG must notify BNSF's Manager of Public Projects, in writing, of the date on which SANBAG, and/or STATE and/or SANBAG's Contractor will meet with BNSF for the purpose of making final inspection of the Project.

12. **TO THE FULLEST EXTENT PERMITTED BY LAW, SANBAG HEREBY RELEASES, INDEMNIFIES, DEFENDS AND HOLDS HARMLESS BNSF, ITS AFFILIATED COMPANIES, PARTNERS, SUCCESSORS, ASSIGNS, LEGAL REPRESENTATIVES, OFFICERS, DIRECTORS, SHAREHOLDERS, EMPLOYEES AND AGENTS FOR, FROM AND AGAINST ANY AND ALL CLAIMS, LIABILITIES, FINES, PENALTIES, COSTS, DAMAGES, LOSSES, LIENS, CAUSES OF ACTION, SUITS, DEMANDS, JUDGMENTS AND EXPENSES (INCLUDING, WITHOUT LIMITATION, COURT COSTS AND ATTORNEYS' FEES) OF ANY NATURE, KIND OR DESCRIPTION OF ANY PERSON (INCLUDING, WITHOUT LIMITATION, THE EMPLOYEES OF THE PARTIES HERETO) OR ENTITY DIRECTLY OR INDIRECTLY ARISING OUT OF, RESULTING FROM OR RELATED TO (IN WHOLE OR IN PART) (I) THE USE, OCCUPANCY OR PRESENCE OF SANBAG, ITS CONTRACTORS, SUBCONTRACTORS, EMPLOYEES OR AGENTS IN, ON, OR ABOUT THE CONSTRUCTION SITE, (II) THE PERFORMANCE, OR FAILURE TO PERFORM BY SANBAG, ITS CONTRACTORS, SUBCONTRACTORS, EMPLOYEES, OR AGENTS, ITS WORK OR ANY OBLIGATION UNDER THIS AGREEMENT, (III) THE SOLE OR CONTRIBUTING ACTS OR OMISSIONS OF SANBAG, ITS CONTRACTORS, SUBCONTRACTORS, EMPLOYEES, OR AGENTS IN, ON, OR ABOUT THE CONSTRUCTION SITE, (IV) SANBAG'S BREACH OF THE TEMPORARY CONSTRUCTION LICENSE GRANTED TO SANBAG PURSUANT TO ARTICLE II OF THIS AGREEMENT, (V) ANY RIGHTS OR INTERESTS GRANTED TO SANBAG PURSUANT TO THE TEMPORARY CONSTRUCTION LICENSE DISCUSSED IN ARTICLE II OF THIS AGREEMENT, (VI) SANBAG'S OCCUPATION AND USE OF**

BNSF'S PROPERTY OR RAIL CORRIDOR, OR (VII) AN ACT OR OMISSION OF SANBAG OR ITS OFFICERS, AGENTS, INVITEES, EMPLOYEES OR CONTRACTORS OR ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY ANY OF THEM, OR ANYONE THEY CONTROL OR EXERCISE CONTROL OVER. THE LIABILITY ASSUMED BY SANBAG WILL NOT BE AFFECTED BY THE FACT, IF IT IS A FACT, THAT THE DAMAGE, DESTRUCTION, INJURY OR DEATH WAS OCCASIONED BY OR CONTRIBUTED TO BY THE NEGLIGENCE OF BNSF, ITS AGENTS, SERVANTS, EMPLOYEES OR OTHERWISE, EXCEPT TO THE EXTENT THAT SUCH CLAIMS ARE PROXIMATELY CAUSED BY THE WILLFUL MISCONDUCT OR SOLE NEGLIGENCE OF BNSF.

13. SANBAG must give BNSF's Manager of Public Projects written notice to proceed ("**Notice to Proceed**") with the railroad work after receipt of necessary funds for the Project. BNSF will not begin the railroad work (including, without limitation, procurement of supplies, equipment or materials) until written notice to proceed is received from SANBAG. The Notice to Proceed must reference BNSF's file number 026113F.

#### **ARTICLE IV - STATE OBLIGATIONS**

**IN CONSIDERATION** of the covenants of BNSF and SANBAG herein contained and the faithful performance thereof, STATE agrees:

1. To permit SANBAG to act as the responsible lead agency to design and construct the Project.
2. STATE must make application to the Public Utilities Commission of the State of California ("**Commission**") for an order authorizing construction of the Project and to furnish to the Commission plans of the proposed construction, approved by BNSF, together with a copy of this agreement and to obtain all other required permits and approvals for the construction of the Project.
3. STATE will acquire all properties required to construct the Project and maintain the Structure;
4. In addition to the terms and conditions set forth elsewhere in this Agreement, including, but not limited to, the terms and conditions stated in Exhibit F, BNSF and STATE agree to the following terms upon completion of construction of the Project:
  - (a) STATE will own and maintain, at its sole cost and expense, the Structure, the highway approaches, and appurtenances thereto, lighting, drainage and any access roadways to BNSF gates installed pursuant to this Agreement.
  - (b) STATE will arrange for removal of graffiti from the Structure;
  - (c) STATE must maintain D.O.T. Crossing Number 026113F in legible condition in the conspicuous location on the Structure where applied by SANBAG during construction;
  - (d) It is understood by STATE that the right to install utilities is restricted to the placement of underground utilities beneath BNSF's tracks located a minimum of fifty (50) feet from abutments, piers, piles, or footings with the exception that upon BNSF's prior approval BNSF will permit selected utilities to be run through the deck of the Structure. Under no circumstances will utilities be allowed to hang from the Structure. All utility crossings within the limits of BNSF's Rail Corridor will be covered by separate agreements between BNSF and each of the owners of the utilities.
  - (e) Upon request from BNSF, STATE shall remove all trash and debris associated with the Structure from BNSF's property.
  - (f) In conformance with and limited to the applicable effect of California Laws insofar as the indemnity and insurance provisions set forth in any of the preceding sections or any rider, amendment or addendum hereto, State is self-insured. If State performs (i) alterations or modifications to the Structure, or (ii) any maintenance or other work on the Structure with heavy tools, equipment or machinery at ground surface level horizontally within 25'-0" of

the centerline of the nearest track, or (iii) any maintenance or other work outside the limits of the deck of the Structure vertically above the top of the rail, then STATE, shall provide BNSF defense and indemnification at least equal to the defense, indemnification and insurance provisions contained in Exhibit C-1 in accordance with California Government Code section 14662.5. Nothing herein shall be deemed to insure BNSF against its sole negligence or willful misconduct.

In the event any of the Work to be done on behalf of STATE upon BNSF's Rail Corridor is to be done by a contractor or subcontractor, said contractor or subcontractor shall provide to BNSF the insurance policies, certificates, binders, and/or endorsements in favor of BNSF as contained in said Exhibit C-1 as the same may be revised from time to time.

5. Subject to the restrictions imposed by Article V, Section 11 below, STATE must notify and obtain prior authorization from BNSF's Manager of Public Projects before entering BNSF's Rail Corridor for maintenance purposes. If the construction work hereunder is contracted, STATE must require its prime contractor(s) to comply with the obligations set forth in Exhibit C, Exhibit C-1 and Exhibit F, as the same may be revised from time to time. STATE will be responsible for its contractor(s) compliance with such obligations.

6. **PURSUANT TO CALIFORNIA GOVERNMENT CODE SECTION 14662.5, STATE HEREBY AGREES TO INDEMNIFY AND HOLD HARMLESS BNSF FROM, AND TO REPAIR OR PAY FOR, ANY DAMAGE PROXIMATELY CAUSED BY REASON OF THE USES AUTHORIZED BY THE EASEMENT SET FORTH IN EXHIBIT B-1 TO THIS AGREEMENT, AND THE TEMPORARY CONSTRUCTION LICENSE SET FORTH IN EXHIBIT B TO THIS AGREEMENT.**

#### **ARTICLE V – JOINT OBLIGATIONS**

IN CONSIDERATION of the premises, the parties hereto mutually agree to the following:

1. All work contemplated in this Agreement must be performed in a good and workmanlike manner and each portion must be promptly commenced by the party obligated hereunder to perform the same and thereafter diligently prosecuted to conclusion in its logical order and sequence. Furthermore, any changes or modifications during construction which affect BNSF will be subject to BNSF's approval prior to the commencement of any such changes or modifications.

2. The work hereunder must be done in accordance with the Bridge Requirements set forth on Exhibit F, the Instructions For Preparation Of Demolition Plans as set forth in Exhibit G, and the detailed plans and specifications approved by BNSF.

3. SANBAG must require its contractor(s) to reasonably adhere to the Project's construction schedule for all Project work. The parties hereto mutually agree that BNSF's failure to complete the railroad work in accordance with the construction schedule due to inclement weather or unforeseen railroad emergencies will not constitute a breach of this Agreement by BNSF and will not subject BNSF to any liability. Regardless of the requirements of the construction schedule, BNSF reserves the right to reallocate the labor forces assigned to complete the railroad work in the event of an emergency to provide for the immediate restoration of railroad operations (BNSF or its related railroads) or to protect persons or property on or near any BNSF owned property. BNSF will not be liable for any additional costs or expenses resulting from any such reallocation of its labor forces. The parties mutually agree that any reallocation of labor forces by BNSF pursuant to this provision and any direct or indirect consequences or costs resulting from any such reallocation will not constitute a breach of this Agreement by BNSF.

4. BNSF shall have the right to request any SANBAG employee, or STATE employee, who enters BNSF's Rail Corridor and because of their incompetence, neglect of duty, unsafe conduct or misconduct and/or they adversely affected BNSF's operations or facilities, be removed from the Rail Corridor. In the event SANBAG, or STATE elects not to honor such request, BNSF may stop work within its Rail Corridor until the matter has been fully resolved to BNSF's satisfaction. The party whose employee has been

asked to leave the Rail Corridor will indemnify BNSF and the other parties against any claims arising from such removal.

5. BNSF will have the right to stop construction work on the Project if any of the following events take place: (i) Contractor (or any of its subcontractors) performs the Project work in a manner contrary to the plans and specifications approved by BNSF; (ii) Contractor (or any of its subcontractors), in BNSF's opinion, prosecutes the Project work in a manner which is hazardous to BNSF property, facilities or the safe and expeditious movement of railroad traffic; (iii) the insurance described in the attached Exhibit C-1 is canceled during the course of the Project; or (iv) STATE fails to pay BNSF for the Temporary Construction License or the Easement pursuant to Article II, Section 1 of this Agreement. The work stoppage will continue until all necessary actions are taken by STATE, Contractor or its subcontractor to rectify the situation to the satisfaction of BNSF's Division Engineer or until additional insurance has been delivered to and accepted by BNSF. In the event of a breach of (i) this Agreement, (ii) the Temporary Construction License, or (iii) the Easement, BNSF may immediately terminate the Temporary Construction License or the Easement. Any such work stoppage under this provision will not give rise to any liability on the part of BNSF. BNSF's right to stop the work is in addition to any other rights BNSF may have including, but not limited to, actions or suits for damages or lost profits. In the event that BNSF desires to stop construction work on the Project, BNSF agrees to immediately notify the following individual in writing:

SANBAG Director of Freeway Construction  
1170 W. 3rd Street, 2nd Floor  
San Bernardino, CA 92410  
Fax: (909) 388-2002.

6. SANBAG's or any STATE employee, agents, contractors, representatives and invitees shall wear Personal Protective Equipment ("PPE") when on the BNSF's Rail Corridor during construction of the Project or performing subsequent maintenance after completion of construction. The PPE shall meet applicable OSHA and ANSI specifications. Current BNSF PPE requirements are listed on the web site, www.contractororientation.com. A partial list of BNSF's PPE requirements include; a) safety glasses: permanently affixed side shields; no yellow lenses, b) hard hats with high visibility orange cover, c) safety shoes: hardened toe, above-the-ankle lace-up with a defined heel and d), high visibility retro-reflective orange vests are required as specified by BNSF's representative in charge of the Project. PPE requirements as defined on the web site, will be amended from time to time, and shall take precedence over the Partial list of requirements outlined in this Section 6 of Article V. Hearing protection, fall protection and respirators will be worn as required by State and Federal regulations.

7. SANBAG must supervise and inspect the operations of all SANBAG contractors to assure compliance with the plans and specifications approved by BNSF, the terms of this Agreement and all safety requirements of the BNSF railroad. If BNSF determines that proper supervision and inspection is not being performed by SANBAG personnel at any time during construction of the Project, BNSF has the right to stop construction (within or adjacent to its operating Rail Corridor). Construction of the Project will not proceed until SANBAG corrects the situation to BNSF's reasonable satisfaction. If BNSF feels the situation is not being corrected in an expeditious manner, BNSF will immediately notify SANBAG Director of Freeway Construction for appropriate corrective action.

8. The Project funding is contemplated to come from mixed sources including Federal funds. Pursuant FEDERAL-AID POLICY GUIDE, dated December 9, 1991, Transmittal 1 23 CFR 646B which states projects for the reconstruction of existing grade separations are deemed to generally be of no ascertainable net benefit to the railroad and there shall be no required railroad share of the costs, unless the railroad has a specific contractual obligation with the State or its political subdivision to share in the costs. Additionally pursuant to the Commission's Code 1201.5 (d) BNSF is not required to contribute to the cost to reconstruct the Ninth Street Overhead as its reconstruction will not increase its capacity.

9. Pursuant to this section and Article II, Section 6 herein, SANBAG must, out of funds made available to it for the construction of the Project, reimburse BNSF in full for the actual costs of all work performed by BNSF under this Agreement.

10. All expenses detailed in statements sent to SANBAG pursuant to Article II, Section 6 herein will comply with the terms and provisions of the Federal Aid Highway Program Manual, U.S. Department of Transportation, as amended from time to time, which manual is hereby incorporated into and made a part of this Agreement by reference. The parties mutually agree that BNSF's preliminary engineering, design, and contract preparation costs described in Article II, Section 2 herein are part of the costs of the Project even though such work may have preceded the date of this Agreement and the issuance of Notice to Proceed as more particularly described in Article III, Section 13.

11. The parties mutually agree that no construction activities for the Project, nor future maintenance of the Structure once completed, that would interfere with operations of the Rail Corridor will be permitted during the fourth quarter of each calendar year. Emergency work will be permitted only upon prior notification to BNSF's Network Operations Center (telephone number: 800 832-5452). The parties hereto mutually understand and agree that trains cannot be subjected to delay during this time period.

12. Subject to the restrictions imposed by Article V, Section 11 above, the construction of the Project will not commence until SANBAG gives BNSF's Manager of Public Projects thirty (30) days prior written notice of such commencement. The commencement notice will reference BNSF's file number 026113F. and must state the time that construction activities will begin.

13. Within 90 days of the conclusion of the Project and final acceptance by BNSF, SANBAG must provide BNSF with a complete electronic set of the bridge plans with the railroad clearances (prepared in English Units). BNSF will also accept a marked up paper copy of the bridge plans labeled "**As Built**". The marked up copy of those plans will reflect any and all deviations from the original plans that occurred during construction. The electronic set of bridge plans will be submitted in Micro Station \*.dgn electronic format (preferred) or AutoCAD \*.dwg format. Electronic plans are to be submitted in the original format used for CAD plan preparation and not converted to another format prior to submission. The "As Built" plans shall show actual measured "as constructed" clearances as well as depth, size and location of all foundation components. The plans shall show dimensioned locations of existing and relocated utilities. The As Built plans must comply with the Bridge Requirements set forth on Exhibit F and depict all information in BNSF engineering stationing and mile post pluses. The As Built plans must also include plan and profile, structural bridge drawings and specifications, and drainage plans. All improvements and facilities must be shown. It is understood that BNSF prefers to receive the "As Built" plans in an electronic format.

14. BNSF may, at its expense, make future changes or additions to the railroad components of the Structure if necessary or desirable, in BNSF's sole discretion, including, without limitation the following: (i) the right to raise or lower the grade or change the alignment of its tracks, (ii) the right to lay additional track or tracks, or (iii) the right to build other facilities in connection with the operation of its railroad. Such changes or additions must not change or alter the highway components of the Structure. If it becomes necessary or desirable in the future to change, alter, widen or reconstruct the highway components of the Structure to accommodate railroad projects, the cost of such work, including any cost incidental to alteration of railroad or highway facilities made necessary by any such changes to the Structure, will be divided between BNSF and STATE in such shares as may be mutually agreed to by the parties hereto. Any alteration or reconstruction of the highway components of the Structure will be covered by a Commission order.

15. STATE may, at STATE's sole expense, alter or reconstruct the highway components of the Structure if necessary or desirable, due to traffic conditions or pedestrian or other recreational traffic, provided, however, that any such alteration or reconstruction must not encroach further upon or occupy the surface of BNSF's Rail Corridor to a greater extent than is contemplated by the plans and specifications to be approved by BNSF pursuant to Article III, Section 1 herein, without obtaining BNSF's prior written consent and the execution of a supplement to this Agreement or the completion of a separate agreement. Any alteration or reconstruction of the highway components of the Structure will be covered by a Commission order.

16. Any books, papers, records and accounts of the parties hereto relating to the work hereunder or the costs or expenses for labor and material connected with the construction will at all reasonable times be open to inspection and audit by the agents and authorized representatives of the parties hereto and

the Federal Highway Administration, for a period of three (3) years from the date of the final BNSF invoice under this Agreement.

17. The covenants and provisions of this Agreement are binding upon and inure to the benefit of the successors and assigns of the parties hereto. Notwithstanding the preceding sentence, neither party hereto may assign any of its rights or obligations hereunder without the prior written consent of the other party.

18. In the event construction of the Project does not commence within three (3) years of the Effective Date, this Agreement will become null and void.

19. Neither termination nor expiration of this Agreement will release either party from any liability or obligation under this Agreement, whether of indemnity or otherwise, resulting from any acts, omissions or events happening prior to the date of termination or expiration.

20. To the maximum extent possible, each provision of this Agreement will be interpreted in such a manner as to be effective and valid under applicable law. If any provision of this Agreement is prohibited by, or held to be invalid under, applicable law, such provision will be ineffective solely to the extent of such prohibition or invalidity and the remainder of the provision will be enforceable.

21. Only that portion of the aforesaid Original Agreement between the STATE and Santa Fe that pertains to the Ninth Street Overhead as originally constructed shall terminate on the completion date of the Project as provided for in Article III, Section 11 of this Agreement. The Original Agreement shall remain in full force and effect for the remaining four grade separations, Baseline Street, 16<sup>th</sup> Street, Massachusetts Avenue, and 27<sup>th</sup> Street until they are terminated by separate agreement. Such termination shall not release any party thereto from any liability or obligation thereunder, resulting from any act, omission or event happening prior to the date of termination or thereafter, in the event the terms of said Original Agreement provide that anything shall or may be done after termination thereof.

22. This Agreement (including exhibits and other documents, manuals, etc. incorporated herein), together with previously acquired and recorded property rights if any, is the full and complete agreement between BNSF, STATE and SANBAG with respect to the subject matter herein and supersedes any and all other prior agreements between the parties hereto.

23. Any notice provided for herein or concerning this Agreement must be in writing and will be deemed sufficiently given when sent by certified mail, return receipt requested, to the parties at the following addresses:

BNSF Railway Company:

BNSF's Manager of Public Projects  
740 E. Carnegie Drive  
San Bernardino, CA. 92408  
Email: [Melvin.Thomas@bnsf.com](mailto:Melvin.Thomas@bnsf.com)

Assistant Director Structural Engineering  
4515 Kansas Avenue  
Kansas City, KS 66106  
Email: [Donald.Lozano@bnsf.com](mailto:Donald.Lozano@bnsf.com)

SANBAG:

San Bernardino Associated Governments  
1170 W. 3rd Street, 2<sup>nd</sup> Floor  
San Bernardino, CA 92410  
Attn. Director of Freeway Construction  
Fax: 909 388 2002



STATE:

Department of Transportation  
Division of Right of Way – Railroad Agreements  
1120 N. Street, MS 37  
Sacramento, CA. 95814

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed and attested by its duly qualified and authorized officials as of the day and year first above written.

**BNSF RAILWAY COMPANY**

By: \_\_\_\_\_  
Printed Name: David L. Freeman  
Title: Vice President Engineering

WITNESS:

\_\_\_\_\_

**SAN BERNARDINO ASSOCIATED GOVERNMENTS**

By: \_\_\_\_\_  
Printed Name: Gary C. Ovitt  
Title: President - Board of Directors

APPROVED AS TO FORM:

\_\_\_\_\_  
Jean-Rene Basle  
SANBAG Counsel

**STATE OF CALIFORNIA**, acting by and through its  
Department of Transportation

By: \_\_\_\_\_  
Printed Name: Donald E. Grebe  
Title: Chief, Office of Project Delivery  
Division of Right of Way and Land Surveys

\_\_\_\_\_  
Attorney  
Department of Transportation

\_\_\_\_\_  
Approval Recommended  
Department of Transportation

FORT WORTH, TEXAS  
 SCALE: AS NOTED  
 CALIFORNIA DIVISION  
 CAJON SUBDIVISION  
 LINE SEGMENT 7600



**9th STREET OVERHEAD  
EXHIBIT "A"**

# EXHIBIT D

\*\*\*\*\* MAINTAIN PROPRIETARY CONFIDENTIALITY \*\*\*\*\*

BNSF RAILWAY COMPANY  
COMPANY ESTIMATE FOR  
SANBAG

LOCATION BASELINE

DETAILS OF ESTIMATE

PLAN ITEM : 000136814

VERSION : 1

## PURPOSE, JUSTIFICATION AND DESCRIPTION

BNSF TO PROVIDE FLAGGING AND INSPECTION TO WIDEN 9TH ST BRIDGE/215 FREEWAY  
100% BILLABLE TO SANBAG  
RDM JIMMY CAPPS DE ADAM RICHARDSON

### MAINTAIN PROPRIETARY CONFIDENTIALITY

THE PHYSICAL LIMITS OF THIS PROJECT ARE DESCRIBED BY LINE SEGMENT, MILE POST RANGES, AND IN SOME CASES TRACK NUMBER. THIS IS THE PRIMARY AREA FOR THE PROJECT. THERE WILL BE CASES WHERE WORK MAY OCCUR BEYOND THE DEFINED LIMITS.

PROJECTS THAT INCLUDE SIGNAL, ELECTRICAL, OR TELECOMMUNICATION EQUIPMENT MAY REQUIRE ACTIVITY BEYOND THESE DEFINED TRACK LIMITS. ALL OR PORTIONS OF SOME PROJECTS MAY OCCUR IN AREAS WHERE NO MILEPOST SIGNS EXIST SUCH AS YARDS.

THIS ESTIMATE IS GOOD FOR 90 DAYS. THEREAFTER THE ESTIMATE IS SUBJECT TO CHANGE IN COST FOR LABOR, MATERIAL, AND OVERHEAD.

DESCRIPTION	QUANTITY U/M	COST	TOTAL \$
*****			
LABOR			
*****			
FLAGGING - OTHER R.O.W.- CAP	4800.0 MH	115,696	
PAYROLL ASSOCIATED COSTS		50,906	
DA OVERHEADS		237,176	
TOTAL LABOR COST		403,778	403,778
*****			
MATERIAL			
*****			
TOTAL MATERIAL COST		0	0
*****			
OTHER			
*****			
CONTRACT PREPARATION	1.0 LS	20,000	
INSPECTION / COORDINATION	80.0 DAY	48,000	
TOTAL OTHER ITEMS COST		68,000	68,000
PROJECT SUBTOTAL			471,778
CONTINGENCIES			9,435
BILL PREPARATION FEE			0
GROSS PROJECT COST			481,213
LESS COST PAID BY BNSF			0
TOTAL BILLABLE COST			481,213

## SANBAG Contract No. C09110

by and between

San Bernardino County Transportation Authority

and

California Department of Transportation and BNSF Railroad

for

Construction and Maintenance Agreement for I-215 Segment 2 Baseline Street Overhead

**FOR ACCOUNTING PURPOSES ONLY**

<input checked="" type="checkbox"/> Payable	Vendor Contract # _____	Retention:	<input checked="" type="checkbox"/> Original
<input type="checkbox"/> Receivable	Vendor ID _____	<input type="checkbox"/> Yes _____ % <input checked="" type="checkbox"/> No	<input type="checkbox"/> Amendment

**Notes:**

Original Contract:	\$ <u>787,823</u>	Previous Amendments Total:	\$ _____
Contingency Amount:	\$ _____	Previous Amendments Contingency Total:	\$ _____
		Current Amendment:	\$ _____
		Current Amendment Contingency:	\$ _____

Contingency Amount requires specific authorization by Task Manager prior to release.

**Contract TOTAL → \$ 787,823.00**

↓ Please include funding allocation for the original contract or the amendment.

Task	Cost Code	Funding Sources	Grant ID	Amounts
83810000	5553	CMIA	TBD	\$ 350,000
83811000	5553	CMIA	TBD	\$ 437,823
_____	_____	_____	_____	\$ _____
_____	_____	_____	_____	\$ _____

Original Board Approved Contract Date: <u>12/3/08</u>	Contract Start: <u>12/3/08</u>	Contract End: <u>12/3/13</u>
New Amend. Approval (Board) Date: _____	Amend. Start: _____	Amend. End: _____

If this is a multi-year contract/amendment, please allocate budget authority among approved budget authority and future fiscal year(s)-unbudgeted obligations:

Approved Budget Authority →	Fiscal Year: <u>08/09</u> \$ <u>0</u>	Future Fiscal Year(s) – Unbudgeted Obligation →	\$ <u>787,823</u>
-----------------------------	--	--	-------------------

Is this consistent with the adopted budget? ☒ Yes ☐ No

If yes, which Task includes budget authority? \_\_\_\_\_

If no, has the budget amendment been submitted? ☐ Yes ☒ No**CONTRACT MANAGEMENT**

Please mark an "X" next to all that apply:

☒ Intergovernmental    ☒ Private    ☐ Non-Local    ☐ Local    ☐ Partly Local
Disadvantaged Business Enterprise: ☐ No ☐ Yes \_\_\_\_\_ %Task Manager: Garry CohoeContract Manager: Dennis Saylor
Garry Cohoe    11/6/08  
 Task Manager Signature    Date

Dennis Saylor    11/5/08  
 Contract Manager Signature    Date

Debra Steward    11/6/08  
 Chief Financial Officer Signature    Date

## OVERHEAD AGREEMENT

BNSF File No. 026112Y  
Baseline Street Overhead  
U.S. D.O.T. No. 026112Y

This Agreement ("**Agreement**"), is executed to be effective as of this \_\_\_\_\_ day of \_\_\_\_\_, 2008 ("**Effective Date**"), by and between BNSF RAILWAY COMPANY, a Delaware corporation ("**BNSF**"), and the STATE OF CALIFORNIA, acting through the Department of Transportation, hereinafter referred to as ("**STATE**") and the **SAN BERNARDINO ASSOCIATED GOVERNMENTS**, a body corporate and politic of the State of California, hereinafter referred to as ("**SANBAG**").

### RECITALS:

WHEREAS, BNSF owns and operates a line of railroad in and through the City of San Bernardino, County of San Bernardino, State of California;

WHEREAS, STATE and The Atchison, Topeka and Santa Fe Railway Company, predecessor in interest to BNSF, hereinafter referred to as ("**Santa Fe**"), entered into an agreement dated February 27, 1958, carried in BNSF's records as Contract No. CL-61878, ("**Original Agreement**") which provided for the construction and maintenance of five (5) grade separation structures comprising of Ninth Street, Baseline Street, 16<sup>th</sup> Street, Massachusetts Avenue, and 27<sup>th</sup> Street Overheads, over and across BNSF's rail corridor hereinafter referred to as ("**Rail Corridor**"), and over its tracks;

WHEREAS, the Original Agreement also provided for the installation of a 42 inch reinforced concrete drainage pipe in the vicinity of Baseline Street hereinafter referred to as ("**Drainage Pipe**");

WHEREAS, this Agreement covers the demolition and reconstruction of the Baseline Street Overhead and the continuation of the rights granted in the Original Agreement for the Drainage Pipe;

WHEREAS, STATE and the San Bernardino Associated Governments hereinafter referred to as "SANBAG", propose to reconstruct Interstate Highway I-215, through the City of San Bernardino, in order to accommodate the construction of High Occupancy Vehicle (HOV) lanes involving the demolition and reconstruction of the Baseline Street Overhead by means of a three span, 375.33 foot long cast-in-place post-tensioned box girder bridge supported on multi-column bents and high seat abutments. The abutments will be supported on 24-inch diameter pipe piles;

WHEREAS, STATE and SANBAG have entered into a Design Cooperative Agreement, dated September 3, 2008 providing for SANBAG's design for the reconstruction of the Segment 2 portion of the Interstate Highway I-215 reconstruction project, which includes the reconstruction of the Baseline Street Overhead.

WHEREAS, STATE and SANBAG will enter into a Construction Cooperative Agreement prior to the start of construction of the Project as described in Article I, Section 1 of this Agreement, that will provide for SANBAG's construction of the **Project** with STATE owning and maintaining the **Structure** as described in Article I, Section 1.

NOW, THEREFORE, in consideration of the mutual covenants and agreements of the parties contained herein, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

### **ARTICLE I – SCOPE OF WORK**

1. The term "**Project**" as used herein includes any and all work related to the removal of the

existing Baseline Street Overhead and the construction of a replacement Baseline Street Overhead, the construction of the I-215 On and Off Ramps (hereinafter referred to as the "**Structure**"), more particularly described on the Exhibit A attached hereto and incorporated herein, including the existing Drainage Pipe, and including but not limited to, any and all changes to telephone, telegraph, signal and electrical lines and appurtenances, temporary and permanent track work, fencing, grading, alterations to or new construction of drainage facilities, preliminary and construction engineering and contract preparation.

## **ARTICLE II – BNSF OBLIGATIONS**

In consideration of the covenants of STATE and SANBAG set forth herein and the faithful performance thereof, BNSF agrees as follows:

1. Upon STATE's payment to BNSF of the sum of Five Thousand Two Hundred and Eighty-eight and No/100 DOLLARS (\$5,288.00), BNSF shall grant to SANBAG, its successors and assigns, upon and subject to the terms and conditions set forth in this Agreement, a temporary non-exclusive license (hereinafter called, "Temporary Construction License") to construct the Structure across or upon the portion of BNSF's Rail Corridor described further on Exhibit A, excepting and reserving BNSF's rights, and the rights of any others who have obtained, or may obtain, permission or authority from BNSF, to do the following:

- (a) Operate, maintain, renew and/or relocate any and all existing railroad track or tracks, wires, pipelines and other facilities of like character upon, over or under the surface of said rail corridor;
- (b) Construct, operate, maintain, renew and/or relocate upon said Rail Corridor, without limitation, such facilities as the BNSF may from time to time deem appropriate, provided such facilities do not materially interfere with STATE's use of the Structure;
- (c) Otherwise use or operate the Rail Corridor as BNSF may from time to time deem appropriate, provided such use or operations does not materially interfere with STATE's use of the Structure.

The Temporary Construction License shall be in the form attached hereto as Exhibit B and by this reference made a part hereof, and shall be for a term beginning on the authorized commencement date as set forth in Article III, Section 10 (c) (ii) and ending on the earlier of (i) completion of the Structure, or (ii) Sixty (60) months following the Effective Date of the Temporary Construction License. The Temporary Construction License and related rights to be given by BNSF to STATE and SANBAG shall be without warranty of title of any kind, express or implied, and no covenant of warranty of title will be implied from the use of any word or words therein contained. The Temporary Construction License shall be for the Project and for no other purpose. STATE acknowledges and agrees that STATE shall not have the right, under the Temporary Construction License, to use the Structure. In the event STATE or SANBAG is evicted by anyone owning, or claiming title to or any interest in said Rail Corridor, BNSF will not be liable to STATE or SANBAG for any damages, losses or any expenses of any nature whatsoever. The granting of similar rights to others, subsequent to the date of this Agreement, will not impair or interfere with the rights granted to STATE pursuant to the Temporary Construction License.

Upon payment to BNSF of the additional sum of Thirty Four Thousand Six Hundred and Seventy-one and No/100 DOLLARS (\$34,671.00), such payment to be made within thirty (30) days of the giving of the notice required pursuant to Article III, Section 14 of this Agreement., BNSF shall deliver to STATE, its successors and assigns, a perpetual easement to enter upon and use that portion of BNSF's Rail Corridor described therein as is necessary to use and maintain the Structure. The Easement shall be in the form attached hereto as Exhibit B-1 and by this reference made a part hereof.

2. BNSF will furnish all labor, materials, tools, and equipment for railroad work required for the construction of the Project, such railroad work and the estimated cost thereof being as shown on Exhibit D attached hereto and made a part hereof. In the event construction on the Project has not commenced within six (6) months following the Effective Date, BNSF may, in its sole and absolute discretion, revise

the cost estimates set forth in said Exhibit D. In such event, the revised cost estimates will become a part of this Agreement as though originally set forth herein. Any item of work incidental to the items listed on Exhibit D not specifically mentioned therein may be included as a part of this Agreement upon written approval of SANBAG, which approval will not be unreasonably withheld. Construction of the Project will include the following principle elements of railroad work by BNSF:

- (a) Procurement of materials, equipment and supplies necessary for the railroad work;
  - (b) Preliminary engineering, design, and contract preparation;
  - (c) Furnishing of flagging services necessary for the safety of BNSF's property and the operation of its trains during construction of the Project as set forth in further detail on Exhibit C, attached to this Agreement and made a part hereof;
  - (d) Furnishing engineering and inspection as required in connection with the construction of the Project and;
  - (e) Providing a contract project coordinator, at SANBAG's expense, to serve as a project manager for the Project;
3. BNSF will do all railroad work set forth in Article II, Section 2 above on an actual cost basis, when BNSF, in its sole discretion, determines it is required by its labor agreements to perform such work with its own employees working under applicable collective bargaining agreements or by contractor(s) if necessary.
4. SANBAG agrees to reimburse BNSF for work of an emergency nature caused by SANBAG or SANBAG's contractor in connection with the Project which is reasonably necessary for the immediate restoration of railroad operations, or for the protection of persons or BNSF property. Such work may be performed by BNSF without prior approval of SANBAG and SANBAG agrees to fully reimburse BNSF for all such emergency work.
5. BNSF may charge SANBAG for insurance expenses, including self-insurance expenses, when such expenses cover the cost of Employer's Liability (including, without limitation, liability under the Federal Employer's Liability Act) in connection with the construction of the Project. Such charges will be considered part of the actual cost of the Project, regardless of the nature or amount of ultimate liability for injury, loss or death to BNSF's employees, if any.
6. During the construction of the Project, BNSF will send SANBAG progressive invoices detailing the costs of the railroad work performed by BNSF under this Agreement. Pursuant to the California Prompt Payment Act, CALIFORNIA CODES, GOVERNMENT CODE, SECTION 927-927.12., SANBAG must reimburse BNSF for completed force-account work within forty-five (45) calendar days from the date of SANBAG's receipt of the invoice for such work. Upon completion of the Project, BNSF will send SANBAG a detailed invoice of final costs, segregated as to labor and materials for each item in the recapitulation shown on Exhibit D. If SANBAG fails to make payment of a BNSF invoice within said forty-five (45) days, SANBAG shall pay a penalty at a rate of 1 percent above the rate accrued on June 30 of the prior year by the Pooled Money Investment Account, not to exceed a rate of 15 percent pursuant to Section 927.6 (b) of said Government Code.

### **ARTICLE III – SANBAG OBLIGATIONS**

In consideration of the covenants of STATE and BNSF set forth herein and the faithful performance thereof, SANBAG agrees as follows:

1. SANBAG shall furnish to BNSF and STATE plans and specifications for the Project together with calculations with the railroad clearances expressed in **English Units**. One complete reduced size 11" x 17" paper copy shall be submitted to BNSF's Assistant Director of Structural Engineering. A PDF copy of the plans and specifications should be sent to both BNSF'S Manager Public Projects and BNSF'S Assistant Director Structural Engineering. The PDF copy with a file size of two (2) megabytes or less

should be sent via an email attachment. Should the PDF copy of the plans and specifications exceed two (2) megabytes, a CD (Compact Disk) of the plans and specifications should be sent via overnight mail service to both BNSF offices. The email and mailing addresses are included in Article V, Section 23. Sets of said plans shall be submitted to BNSF and STATE for approval prior to commencement of any construction. BNSF will give SANBAG final written approval of the plans and specifications substantially in the form of Exhibit E, attached to this Agreement and made a part hereof. Upon BNSF'S final written approval of the plans and specifications, said plans and specifications will become part of this Agreement and are hereby incorporated herein. Any approval of the plans and specifications by BNSF shall in no way obligate BNSF in any manner with respect to the finished product design and/or construction. Any approval by BNSF shall mean only that the plans and specifications meet BNSF standard specifications, and such approval by BNSF shall not be deemed to mean that the plans and specifications or construction is structurally sound and appropriate or that such plans and specifications meet applicable regulations, laws, statutes or local ordinances and/or building code.

2. SANBAG must provide for and maintain minimum vertical and horizontal clearances, as required and approved by BNSF as part of the plans and specifications for the Project.

3. SANBAG must make any and all arrangements for the installation or relocation of wire lines, pipe lines and other facilities owned by private persons, companies, corporations, political subdivisions or public utilities other than BNSF which may be necessary for the construction of the Project.

4. SANBAG must construct the Project as shown on the attached Exhibit A and do all work ("**SANBAG's Work**") provided for in the plans and specifications for the Project, except railroad work that will be performed by BNSF herein. SANBAG must furnish all labor, materials, tools and equipment for the performance of SANBAG's Work. The principal elements of SANBAG's Work are as follows:

- (a) Preliminary and final Engineering;
- (b) Demolition and removal of the existing Baseline Street Overhead;
- (c) Design and the Construction of the Structure;
- (d) All necessary grading and paving, including backfill of excavations and restoration of disturbed vegetation on BNSF's Rail Corridor;
- (e) Provide suitable drainage, both temporary and permanent;
- (f) Apply the D.O.T. Crossing Number 026112Y in a conspicuous location on the Structure.
- (g) Job site cleanup including removal of all construction materials, concrete debris, surplus soil, refuse, contaminated soils, asphalt debris, litter and other waste materials to the satisfaction of BNSF;

5. SANBAG will facilitate the acquisition of a perpetual easement to be granted to BNSF to enter upon and use that portion of Baseline Street's right of way for the use and maintenance of BNSF's Signal House with easement area to include the land occupied by the Signal House at its original location and at its present location as shown on said Exhibit A.

6. SANBAG's Work must be performed by SANBAG or SANBAG's contractor in a manner that will not endanger or interfere with the safe and timely operations of BNSF and its facilities.

7. SANBAG must require its contractor(s) to notify BNSF's Roadmaster at least thirty (30) calendar days prior to requesting a BNSF flagman in accordance with the requirements of Exhibit C attached hereto. Additionally, SANBAG must require its contractor(s) to notify BNSF's Manager of Public Projects thirty (30) calendar days prior to commencing work on BNSF property or near BNSF tracks.

8. SANBAG or its contractor(s) shall submit one reduced size 11" x 17" paper copy, including calculations, expressed in **English Units** of the plans and specifications for proposed shoring, falsework,



or cribbing to be used over, under, or adjacent to BNSF'S tracks to BNSF' S Assistant Director Structural Engineering. SANBAG or its contractor(s) shall submit a PDF copy of the plans and specifications for the proposed shoring, falsework, or cribbing to both BNSF'S Manager Public Projects and BNSF'S Assistant Director Structural Engineering. The PDF copy with a file size of two (2) megabytes or less should be sent via an email attachment. Should the PDF copy of the plans and specifications exceed two (2) megabytes, a CD (Compact Disk) of the plans and specifications should be sent via overnight mail service to both BNSF offices for approval. The email and mailing addresses are included in Article V, Section 23. The shoring, falsework or cribbing used by SANBAG'S contractor shall comply with the BNSF Bridge Requirements set forth on Exhibit F, and BNSF's Instructions FOR PREPARATION OF DEMOLITION PLANS as set forth in Exhibit G with both Exhibits attached to this Agreement and incorporated herein, and all applicable requirements promulgated by state and federal agencies, departments, commissions and other legislative bodies.

Falsework shall be designed according to the State of California, Department of Transportation FALSEWORK MANUAL available at this Web Site:  
<http://www.dot.ca.gov/hq/esc/construction/manuals/Falsework/>.

9. SANBAG must include the following provisions in any contract with its contractor(s) performing work on said Project:

- (a) The Contractor is placed on notice that fiber optic, communication and other cable lines and systems (collectively, the "Lines") owned by various telecommunications companies may be buried on BNSF's property or Rail Corridor. The locations of these Lines have been included on the plans based on information from the telecommunications companies. The contractor will be responsible for contacting BNSF's Project Engineer at telephone number 909 386 4079 and/or the telecommunications companies and notifying them of any work that may damage these Lines or facilities and/or interfere with their service. The contractor must also mark all Lines shown on the plans or marked in the field in order to verify their locations. The contractor must also use all reasonable methods when working in the BNSF Rail Corridor or on BNSF property to determine if any other Lines (fiber optic, cable, communication or otherwise) may exist.
- (b) Failure to mark or identify these Lines will be sufficient cause for any BNSF Representative to stop construction at no cost to the SANBAG or BNSF until these items are completed.
- (c) In addition to the liability terms contained elsewhere in this Agreement, the contractor hereby indemnifies, defends and holds harmless BNSF for, from and against all cost, liability, and expense whatsoever (including, without limitation, attorney's fees and court costs and expenses) arising out of or in any way contributed to by any act or omission of Contractor, its subcontractors, agents and/or employees that cause or in any way or degree contribute to (1) any damage to or destruction of any Lines by Contractor, and/or its subcontractors, agents and/or employees, on BNSF's property or within BNSF's Rail Corridor, (2) any injury to or death of any person employed by or on behalf of any telecommunications company, and/or its contractor, agents and/or employees, on BNSF's property or within BNSF's Rail Corridor, and/or (3) any claim or cause of action for alleged loss of profits or revenue by, or loss of service by a customer or user of such telecommunication company(ies). **THE LIABILITY ASSUMED BY CONTRACTOR WILL NOT BE AFFECTED BY THE FACT, IF IT IS A FACT, THAT THE DAMAGE, DESTRUCTION, INJURY, DEATH, CAUSE OF ACTION OR CLAIM WAS OCCASIONED BY OR CONTRIBUTED TO BY THE NEGLIGENCE OF BNSF, ITS AGENTS, SERVANTS, EMPLOYEES OR OTHERWISE, EXCEPT TO THE EXTENT THAT SUCH CLAIMS ARE PROXIMATELY CAUSED BY THE WILLFUL MISCONDUCT OR SOLE NEGLIGENCE OF BNSF.**

- (d) The Contractor will be responsible for the rearrangement of any facilities or Lines determined to interfere with the construction. The Contractor must cooperate fully with any telecommunications company(ies) in performing such rearrangements.

10. SANBAG must incorporate in each prime contract for construction of the Project, or the specifications therefore (i) the provisions set forth in Article III, Sections 6, 7, 8, 9, and 11; (ii) the provisions set forth in Article V, Sections 1, 2, 3, 4, 5, 6, 7, 11 and 12, and (iii) the provisions set forth in Exhibit C, Exhibit C-1, Exhibit F and Exhibit G, with the herein referenced Exhibits attached hereto and by reference made a part hereof.

11. Except as otherwise provided below in this Section 11, all construction work performed hereunder by SANBAG for the Project will be pursuant to a contract or contracts to be let by SANBAG, and all such contracts must include the following:

- (a) All work performed under such contract or contracts within the limits of BNSF's Rail Corridor must be performed in a good and workmanlike manner in accordance with plans and specifications approved by BNSF;
- (b) Changes or modifications during construction that affect safety or BNSF operations must be subject to BNSF's approval;
- (c) No work will be commenced within BNSF's Rail Corridor until each of the prime contractors employed in connection with said work must have (i) executed and delivered to BNSF a letter agreement in the form of Exhibit C-1, and (ii) delivered to and secured BNSF's approval of the required insurance; and
- (d) If it is in SANBAG's best interest, SANBAG may direct that the construction of the Project be done by day labor under the direction and control of SANBAG, or if at any time, in the opinion of SANBAG, the contractor has failed to prosecute with diligence the work specified in and by the terms of said contract, SANBAG may terminate its contract with the contractor and take control over the work and proceed to complete the same by day labor or by employing another contractor(s) provided; however, that any contractor(s) replacing the original contractor(s) must comply with the obligations in favor of BNSF set forth above and, provided further, that if such construction is performed by day labor, SANBAG will, at its expense, procure and maintain on behalf of BNSF the insurance required by Exhibit C-1.
- (e) To facilitate scheduling for the Project, SANBAG shall have its contractor give BNSF's Project Engineer at telephone number 909 386 4079 eight (8) weeks advance notice of the proposed times and dates for work windows. BNSF and SANBAG's contractor will establish mutually agreeable work windows for the Project. SANBAG shall inform its contractor that any request for work windows with less than eight (8) weeks advance notice will have a reduced probability of approval. BNSF has the right at any time to revise or change the work windows, due to train operations or service obligations. BNSF will not be responsible for any additional costs and expenses resulting from a change in work windows. Additional costs and expenses resulting from a change in work windows shall be accounted for in the contractor's expenses for the Project.
- (f) The plans and specifications for the Project must be in compliance with the Bridge Requirements set forth in Exhibit F and the INSTRUCTIONS FOR PREPARATION OF DEMOLITION PLANS set forth in Exhibit G, with both Exhibits attached to this Agreement and incorporated herein.

12. SANBAG must advise the BNSF Manager of Public Projects, in writing, of the completion date of the Project within thirty (30) days after such completion date. Additionally, SANBAG must notify BNSF's Manager of Public Projects, in writing, of the date on which SANBAG, and/or STATE and/or SANBAG's Contractor will meet with BNSF for the purpose of making final inspection of the Project.

13. TO THE FULLEST EXTENT PERMITTED BY LAW, SANBAG HEREBY RELEASES, INDEMNIFIES, DEFENDS AND HOLDS HARMLESS BNSF, ITS AFFILIATED COMPANIES, PARTNERS, SUCCESSORS, ASSIGNS, LEGAL REPRESENTATIVES, OFFICERS, DIRECTORS, SHAREHOLDERS, EMPLOYEES AND AGENTS FOR, FROM AND AGAINST ANY AND ALL CLAIMS, LIABILITIES, FINES, PENALTIES, COSTS, DAMAGES, LOSSES, LIENS, CAUSES OF ACTION, SUITS, DEMANDS, JUDGMENTS AND EXPENSES (INCLUDING, WITHOUT LIMITATION, COURT COSTS AND ATTORNEYS' FEES) OF ANY NATURE, KIND OR DESCRIPTION OF ANY PERSON (INCLUDING, WITHOUT LIMITATION, THE EMPLOYEES OF THE PARTIES HERETO) OR ENTITY DIRECTLY OR INDIRECTLY ARISING OUT OF, RESULTING FROM OR RELATED TO (IN WHOLE OR IN PART) (I) THE USE, OCCUPANCY OR PRESENCE OF SANBAG, ITS CONTRACTORS, SUBCONTRACTORS, EMPLOYEES OR AGENTS IN, ON, OR ABOUT THE CONSTRUCTION SITE, (II) THE PERFORMANCE, OR FAILURE TO PERFORM BY SANBAG, ITS CONTRACTORS, SUBCONTRACTORS, EMPLOYEES, OR AGENTS, ITS WORK OR ANY OBLIGATION UNDER THIS AGREEMENT, (III) THE SOLE OR CONTRIBUTING ACTS OR OMISSIONS OF SANBAG, ITS CONTRACTORS, SUBCONTRACTORS, EMPLOYEES, OR AGENTS IN, ON, OR ABOUT THE CONSTRUCTION SITE, (IV) SANBAG'S BREACH OF THE TEMPORARY CONSTRUCTION LICENSE GRANTED TO STATE PURSUANT TO ARTICLE II OF THIS AGREEMENT, (V) ANY RIGHTS OR INTERESTS GRANTED TO SANBAG PURSUANT TO THE TEMPORARY CONSTRUCTION LICENSE DISCUSSED IN ARTICLE II OF THIS AGREEMENT, (VI) SANBAG'S OCCUPATION AND USE OF BNSF'S PROPERTY OR RAIL CORRIDOR, OR (VII) AN ACT OR OMISSION OF SANBAG OR ITS OFFICERS, AGENTS, INVITEES, EMPLOYEES OR CONTRACTORS OR ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY ANY OF THEM, OR ANYONE THEY CONTROL OR EXERCISE CONTROL OVER. THE LIABILITY ASSUMED BY SANBAG WILL NOT BE AFFECTED BY THE FACT, IF IT IS A FACT, THAT THE DAMAGE, DESTRUCTION, INJURY OR DEATH WAS OCCASIONED BY OR CONTRIBUTED TO BY THE NEGLIGENCE OF BNSF, ITS AGENTS, SERVANTS, EMPLOYEES OR OTHERWISE, EXCEPT TO THE EXTENT THAT SUCH CLAIMS ARE PROXIMATELY CAUSED BY THE WILLFUL MISCONDUCT OR SOLE NEGLIGENCE OF BNSF.

14. SANBAG must give BNSF's Manager of Public Projects written notice to proceed ("**Notice to Proceed**") with the railroad work after receipt of necessary funds for the Project. BNSF will not begin the railroad work (including, without limitation, procurement of supplies, equipment or materials) until written notice to proceed is received from SANBAG. The Notice to Proceed must reference BNSF's file number 026112Y.

#### **ARTICLE IV - STATE OBLIGATIONS**

**IN CONSIDERATION** of the covenants of BNSF and SANBAG herein contained and the faithful performance thereof, STATE agrees:

1. To permit SANBAG to act as the responsible lead agency to design and construct the Project.
2. STATE must make application to the Public Utilities Commission of the State of California ("**Commission**") for an order authorizing construction of the Project and to furnish to the Commission plans of the proposed construction, approved by BNSF, together with a copy of this agreement and to obtain all other required permits and approvals for the construction of the Project.
3. STATE will acquire all properties required to construct the Project and maintain the Structure;
4. In addition to the terms and conditions set forth elsewhere in this Agreement, including, but not limited to, the terms and conditions stated in Exhibit F, BNSF and STATE agree to the following terms upon completion of construction of the Project:
  - (a) STATE will own and maintain, at its sole cost and expense, the Structure, the highway approaches, and appurtenances thereto, lighting, drainage and any access roadways to BNSF gates installed pursuant to this Agreement.
  - (b) STATE will arrange for removal of graffiti from the Structure;

- (c) STATE must maintain D.O.T. Crossing Number 026112Y in legible condition in the conspicuous location on the Structure where applied by SANBAG during construction;
- (d) It is understood by STATE that the right to install utilities is restricted to the placement of underground utilities beneath BNSF's tracks located a minimum of fifty (50) feet from abutments, piers, piles, or footings with the exception that upon BNSF's prior approval BNSF will permit selected utilities to be run through the deck of the Structure. Under no circumstances will utilities be allowed to hang from the Structure. All utility crossings within the limits of BNSF's Rail Corridor will be covered by separate agreements between BNSF and each of the owners of the utilities.
- (e) Upon request from BNSF, STATE shall remove all trash and debris associated with the Structure from BNSF's property.
- (f) In conformance with and limited to the applicable effect of California Laws insofar as the indemnity and insurance provisions set forth in any of the preceding sections or any rider, amendment or addendum hereto, State is self-insured. If State performs (i) alterations or modifications to the Structure, or (ii) any maintenance or other work on the Structure with heavy tools, equipment or machinery at ground surface level horizontally within 25'-0" of the centerline of the nearest track, or (iii) any maintenance or other work outside the limits of the deck of the Structure vertically above the top of the rail, then STATE, shall provide BNSF defense and indemnification at least equal to the defense, indemnification and insurance provisions contained in Exhibit C-1 in accordance with California Government Code section 14662.5. Nothing herein shall be deemed to insure BNSF against its sole negligence or willful misconduct.

In the event any of the Work to be done on behalf of STATE upon BNSF's Rail Corridor is to be done by a contractor or subcontractor, said contractor or subcontractor shall provide to BNSF the insurance policies, certificates, binders, and/or endorsements in favor of BNSF as contained in said Exhibit C-1 as the same may be revised from time to time.

5. Subject to the restrictions imposed by Article V, Section 11 below, STATE must notify and obtain prior authorization from BNSF's Manager of Public Projects before entering BNSF's Rail Corridor for maintenance purposes. If the construction work hereunder is contracted, STATE must require its prime contractor(s) to comply with the obligations set forth in Exhibit C, Exhibit C-1 and Exhibit F, as the same may be revised from time to time. STATE will be responsible for its contractor(s) compliance with such obligations.

**6. PURSUANT TO CALIFORNIA GOVERNMENT CODE SECTION 14662.5, STATE HEREBY AGREES TO INDEMNIFY AND HOLD HARMLESS BNSF FROM, AND TO REPAIR OR PAY FOR, ANY DAMAGE PROXIMATELY CAUSED BY REASON OF THE USES AUTHORIZED BY THE EASEMENT SET FORTH IN EXHIBIT B-1 TO THIS AGREEMENT, AND THE TEMPORARY CONSTRUCTION LICENSE SET FORTH IN EXHIBIT B TO THIS AGREEMENT.**

## **ARTICLE V – JOINT OBLIGATIONS**

IN CONSIDERATION of the premises, the parties hereto mutually agree to the following:

1. All work contemplated in this Agreement must be performed in a good and workmanlike manner and each portion must be promptly commenced by the party obligated hereunder to perform the same and thereafter diligently prosecuted to conclusion in its logical order and sequence. Furthermore, any changes or modifications during construction which affect BNSF will be subject to BNSF's approval prior to the commencement of any such changes or modifications.

2. The work hereunder must be done in accordance with the Bridge Requirements set forth on Exhibit F, the Instructions For Preparation Of Demolition Plans as set forth in Exhibit G, and the detailed plans and specifications approved by BNSF.

3. SANBAG must require its contractor(s) to reasonably adhere to the Project's construction schedule for all Project work. The parties hereto mutually agree that BNSF's failure to complete the railroad work in accordance with the construction schedule due to inclement weather or unforeseen railroad emergencies will not constitute a breach of this Agreement by BNSF and will not subject BNSF to any liability. Regardless of the requirements of the construction schedule, BNSF reserves the right to reallocate the labor forces assigned to complete the railroad work in the event of an emergency to provide for the immediate restoration of railroad operations (BNSF or its related railroads) or to protect persons or property on or near any BNSF owned property. BNSF will not be liable for any additional costs or expenses resulting from any such reallocation of its labor forces. The parties mutually agree that any reallocation of labor forces by BNSF pursuant to this provision and any direct or indirect consequences or costs resulting from any such reallocation will not constitute a breach of this Agreement by BNSF.

4. BNSF shall have the right to request any SANBAG employee, or STATE employee, who enters BNSF's Rail Corridor and because of their incompetence, neglect of duty, unsafe conduct or misconduct and/or they adversely affected BNSF's operations or facilities, be removed from the Rail Corridor. In the event SANBAG, or STATE elects not to honor such request, BNSF may stop work within its Rail Corridor until the matter has been fully resolved to BNSF's satisfaction. The party whose employee has been asked to leave the Rail Corridor will indemnify BNSF and the other parties against any claims arising from such removal.

5. BNSF will have the right to stop construction work on the Project if any of the following events take place: (i) Contractor (or any of its subcontractors) performs the Project work in a manner contrary to the plans and specifications approved by BNSF; (ii) Contractor (or any of its subcontractors), in BNSF's opinion, prosecutes the Project work in a manner which is hazardous to BNSF property, facilities or the safe and expeditious movement of railroad traffic; (iii) the insurance described in the attached Exhibit C-1 is canceled during the course of the Project; or (iv) STATE fails to pay BNSF for the Temporary Construction License or the Easement pursuant to Article II, Section 1 of this Agreement. The work stoppage will continue until all necessary actions are taken by STATE, Contractor or its subcontractor to rectify the situation to the satisfaction of BNSF's Division Engineer or until additional insurance has been delivered to and accepted by BNSF. In the event of a breach of (i) this Agreement, (ii) the Temporary Construction License, or (iii) the Easement, BNSF may immediately terminate the Temporary Construction License or the Easement. Any such work stoppage under this provision will not give rise to any liability on the part of BNSF. BNSF's right to stop the work is in addition to any other rights BNSF may have including, but not limited to, actions or suits for damages or lost profits. In the event that BNSF desires to stop construction work on the Project, BNSF agrees to immediately notify the following individual in writing:

SANBAG Director of Freeway Construction  
1170 W. 3rd Street, 2nd Floor  
San Bernardino, CA 92410  
Fax: (909) 388-2002.

6. SANBAG's or any STATE employee, agents, contractors, representatives and invitees shall wear Personal Protective Equipment ("PPE") when on the BNSF's Rail Corridor during construction of the Project or performing subsequent maintenance after completion of construction. The PPE shall meet applicable OSHA and ANSI specifications. Current BNSF PPE requirements are listed on the web site, www.contractororientation.com. A partial list of BNSF's PPE requirements include: a) safety glasses: permanently affixed side shields; no yellow lenses, b) hard hats with high visibility orange cover, c) safety shoes: hardened toe, above-the-ankle lace-up with a defined heel and d), high visibility retro-reflective orange vests are required as specified by BNSF's representative in charge of the Project. PPE requirements as defined on the web site, will be amended from time to time, and shall take precedence over the Partial list of requirements outlined in this Section 6 of Article V. Hearing protection, fall protection and respirators will be worn as required by State and Federal regulations.

7. SANBAG must supervise and inspect the operations of all SANBAG contractors to assure compliance with the plans and specifications approved by BNSF, the terms of this Agreement and all safety requirements of the BNSF railroad. If BNSF determines that proper supervision and inspection is not being performed by SANBAG personnel at any time during construction of the Project, BNSF has the right to stop construction (within or adjacent to its operating Rail Corridor). Construction of the Project will not proceed until SANBAG corrects the situation to BNSF's reasonable satisfaction. If BNSF feels the situation is not being corrected in an expeditious manner, BNSF will immediately notify SANBAG Director of Freeway Construction for appropriate corrective action.

8. The Project funding is contemplated to come from mixed sources including Federal funds. Pursuant FEDERAL-AID POLICY GUIDE, dated December 9, 1991, Transmittal 1 23 CFR 646B which states projects for the reconstruction of existing grade separations are deemed to generally be of no ascertainable net benefit to the railroad and there shall be no required railroad share of the costs, unless the railroad has a specific contractual obligation with the State or its political subdivision to share in the costs.

9. Pursuant to this section and Article II, Section 6 herein, SANBAG must, out of funds made available to it for the construction of the Project, reimburse BNSF in full for the actual costs of all work performed by BNSF under this Agreement.

10. All expenses detailed in statements sent to SANBAG pursuant to Article II, Section 6 herein will comply with the terms and provisions of the Federal Aid Highway Program Manual, U.S. Department of Transportation, as amended from time to time, which manual is hereby incorporated into and made a part of this Agreement by reference. The parties mutually agree that BNSF's preliminary engineering, design, and contract preparation costs described in Article II, Section 2 herein are part of the costs of the Project even though such work may have preceded the date of this Agreement and the issuance of Notice to Proceed as more particularly described in Article III, Section 14.

11. The parties mutually agree that no construction activities for the Project, nor future maintenance of the Structure once completed, that would interfere with operations of the Rail Corridor will be permitted during the fourth quarter of each calendar year. Emergency work will be permitted only upon prior notification to BNSF's Network Operations Center (telephone number: 800 832-5452). The parties hereto mutually understand and agree that trains cannot be subjected to delay during this time period.

12. Subject to the restrictions imposed by Article V, Section 11 above, the construction of the Project will not commence until SANBAG gives BNSF's Manager of Public Projects thirty (30) days prior written notice of such commencement. The commencement notice will reference BNSF's file number 026112Y. and must state the time that construction activities will begin.

13. Within 90 days of the conclusion of the Project and final acceptance by BNSF, SANBAG must provide BNSF with a complete electronic set of the bridge plans with the railroad clearances (prepared in **English Units**). BNSF will also accept a marked up paper copy of the bridge plans labeled "As Built". The marked up copy of those plans will reflect any and all deviations from the original plans that occurred during construction. The electronic set of bridge plans will be submitted in Micro Station \*.dgn electronic format (preferred) or AutoCAD \*.dwg format. Electronic plans are to be submitted in the original format used for CAD plan preparation and not converted to another format prior to submission. The "As Built" plans shall show actual measured "as constructed" clearances as well as depth, size and location of all foundation components. The plans shall show dimensioned locations of existing and relocated utilities. The As Built plans must comply with the Bridge Requirements set forth on Exhibit F and depict all information in BNSF engineering stationing and mile post pluses. The As Built plans must also include plan and profile, structural bridge drawings and specifications, and drainage plans. All improvements and facilities must be shown. It is understood that BNSF prefers to receive the "As Built" plans in an electronic format.

14. BNSF may, at its expense, make future changes or additions to the railroad components of the Structure if necessary or desirable, in BNSF's sole discretion, including, without limitation the following: (i) the right to raise or lower the grade or change the alignment of its tracks, (ii) the right to lay additional track or tracks, or (iii) the right to build other facilities in connection with the operation of its railroad. Such

changes or additions must not change or alter the highway components of the Structure. If it becomes necessary or desirable in the future to change, alter, widen or reconstruct the highway components of the Structure to accommodate railroad projects, the cost of such work, including any cost incidental to alteration of railroad or highway facilities made necessary by any such changes to the Structure, will be divided between BNSF and STATE in such shares as may be mutually agreed to by the parties hereto. Any alteration or reconstruction of the highway components of the Structure will be covered by a Commission order.

15. STATE may, at STATE's sole expense, alter or reconstruct the highway components of the Structure if necessary or desirable, due to traffic conditions or pedestrian or other recreational traffic, provided, however, that any such alteration or reconstruction must not encroach further upon or occupy the surface of BNSF's Rail Corridor to a greater extent than is contemplated by the plans and specifications to be approved by BNSF pursuant to Article III, Section 1 herein, without obtaining BNSF's prior written consent and the execution of a supplement to this Agreement or the completion of a separate agreement. Any alteration or reconstruction of the highway components of the Structure will be covered by a Commission order.

16. Any books, papers, records and accounts of the parties hereto relating to the work hereunder or the costs or expenses for labor and material connected with the construction will at all reasonable times be open to inspection and audit by the agents and authorized representatives of the parties hereto and the Federal Highway Administration, for a period of three (3) years from the date of the final BNSF invoice under this Agreement.

17. The covenants and provisions of this Agreement are binding upon and inure to the benefit of the successors and assigns of the parties hereto. Notwithstanding the preceding sentence, neither party hereto may assign any of its rights or obligations hereunder without the prior written consent of the other party.

18. In the event construction of the Project does not commence within three (3) years of the Effective Date, this Agreement will become null and void.

19. Neither termination nor expiration of this Agreement will release either party from any liability or obligation under this Agreement, whether of indemnity or otherwise, resulting from any acts, omissions or events happening prior to the date of termination or expiration.

20. To the maximum extent possible, each provision of this Agreement will be interpreted in such a manner as to be effective and valid under applicable law. If any provision of this Agreement is prohibited by, or held to be invalid under, applicable law, such provision will be ineffective solely to the extent of such prohibition or invalidity and the remainder of the provision will be enforceable.

21. Only that portion of the aforesaid Original Agreement between the STATE and Santa Fe that pertains to the Baseline Street Overhead and the Drainage Pipe as originally constructed shall terminate on the completion date of the Project as provided for in Article III, Section 12 of this Agreement. The Original Agreement shall remain in full force and effect for the remaining four grade separations, Ninth Street, 16<sup>th</sup> Street, Massachusetts Avenue, and 27<sup>th</sup> Street until they are terminated by separate agreement. Such termination shall not release any party thereto from any liability or obligation thereunder, resulting from any act, omission or event happening prior to the date of termination or thereafter, in the event the terms of said Original Agreement provide that anything shall or may be done after termination thereof.

22. This Agreement (including exhibits and other documents, manuals, etc. incorporated herein), together with previously acquired and recorded property rights if any, is the full and complete agreement between BNSF, STATE and SANBAG with respect to the subject matter herein and supersedes any and all other prior agreements between the parties hereto.

23. Any notice provided for herein or concerning this Agreement must be in writing and will be deemed sufficiently given when sent by certified mail, return receipt requested, to the parties at the following addresses:

BNSF Railway Company:

BNSF's Manager of Public Projects  
740 E. Carnegie Drive  
San Bernardino, CA. 92408  
Email: [Melvin.Thomas@bnsf.com](mailto:Melvin.Thomas@bnsf.com)

Assistant Director Structural Engineering  
4515 Kansas Avenue  
Kansas City, KS 66106  
Email: [Donald.Lozano@bnsf.com](mailto:Donald.Lozano@bnsf.com)

SANBAG:

San Bernardino Associated Governments  
1170 W. 3rd Street, 2<sup>nd</sup>. Floor  
San Bernardino, CA 92410  
Attn. Director of Freeway Construction  
Fax: 909 388 2002

STATE:

Department of Transportation  
Division of Right of Way – Railroad Agreements  
1120 N. Street, MS 37  
Sacramento, CA. 95814

[Signature page follows]



IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed and attested by its duly qualified and authorized officials as of the day and year first above written.

**BNSF RAILWAY COMPANY**

By: \_\_\_\_\_  
Printed Name: David L. Freeman  
Title: Vice President Engineering

WITNESS:

\_\_\_\_\_

**SAN BERNARDINO ASSOCIATED GOVERNMENTS**

By: \_\_\_\_\_  
Printed Name: Gary C. Ovitt  
Title: President - Board of Directors

APPROVED AS TO FORM:

\_\_\_\_\_  
Jean-Rene Basle  
SANBAG Counsel

**STATE OF CALIFORNIA**, acting by and through its  
Department of Transportation

By: \_\_\_\_\_  
Printed Name: Donald E. Grebe  
Title: Chief, Office of Project Delivery  
Division of Right of Way and Land Surveys

\_\_\_\_\_  
Attorney  
Department of Transportation

\_\_\_\_\_  
Approval Recommended  
Department of Transportation



**DAVID L. FREEMAN**  
VICE PRES., ENGINEERING

FORT WORTH, TEXAS  
 SCALE: AS NOTED  
 CALIFORNIA DIVISION  
 CANYON SUBDIVISION  
 LINE SEGMENT 7800



**TYPICAL SECTION**  
1"=30'

**TYPICAL SECTION @ BENT 5**

## DESCRIPTION

**BASELINE STREET S BND. ON-RAMP  
US D.O.T. NO. 026112Y  
ST. BR. NO. 54-1224  
RECONSTRUCT THE EXISTING BASELINE  
OVER BNSF'S RAIL CORRIDOR AND THE  
APPROXIMATELY 120' WIDE AND 375'**

**BASELINE STREET OVERHEAD**  
**EXHIBIT "A" 2 of 3**

NEAR SAN BERNARDINO, CA  
SAN BERNARDINO COUNTY, CALIFORNIA

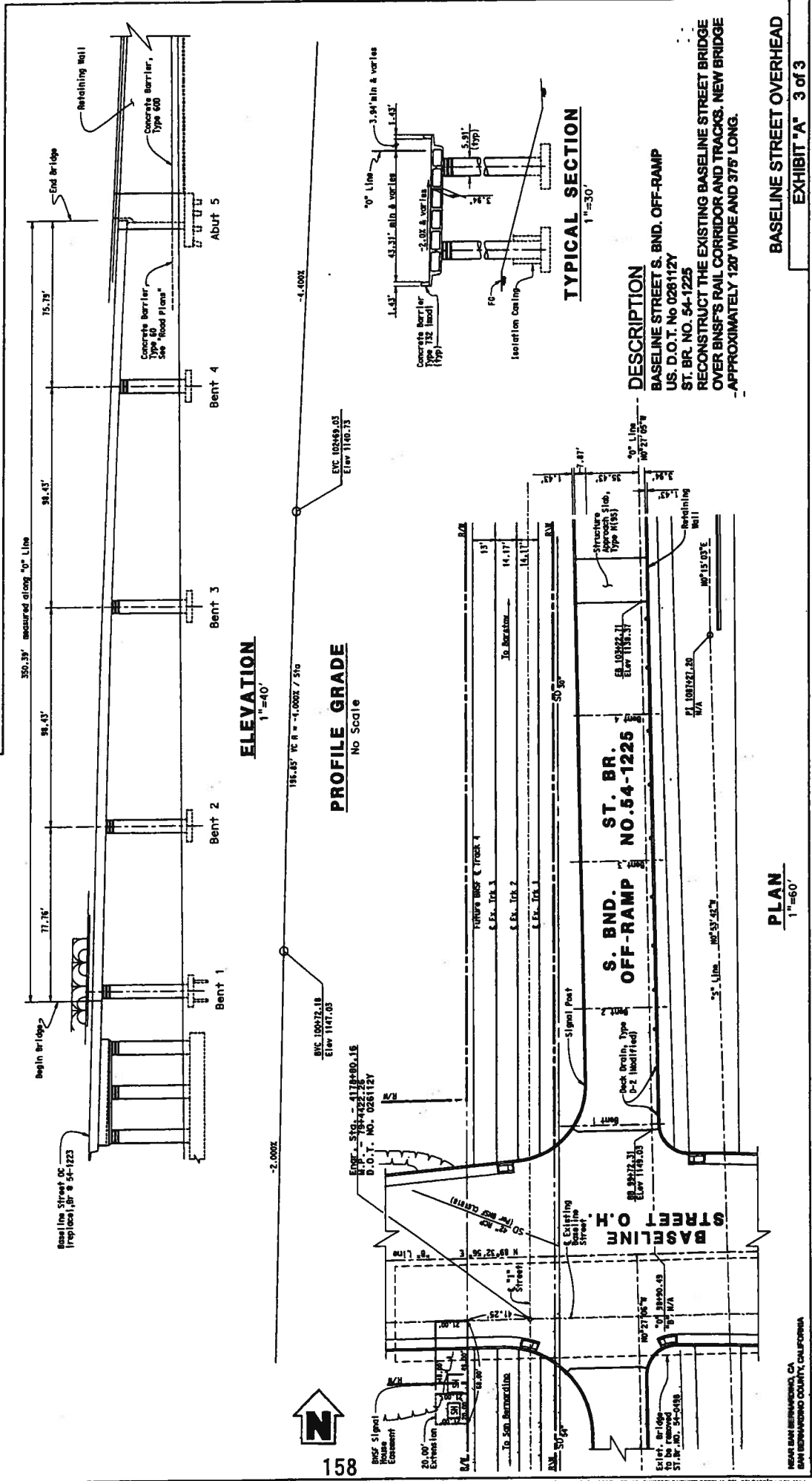
# EXHIBIT "A"

ATTACHED TO A CONTRACT BETWEEN  
BNSF RAILWAY COMPANY  
AND  
THE STATE OF CALIFORNIA

FORT WORTH, TEXAS  
SCALE: AS NOTED  
CALIFORNIA DIVISION  
SAN BERNARDINO COUNTY  
LINE SEGMENT TWO

DAVID L. FREEMAN  
VICE PRES. ENGINEERING

SAN BERNARDINO ASSOCIATED GOVERNMENTS



# EXHIBIT D

\*\*\*\*\* MAINTAIN PROPRIETARY CONFIDENTIALITY \*\*\*\*\*

BNSF RAILWAY COMPANY  
COMPANY ESTIMATE FOR  
SANBAG

LOCATION ONO TO BASELINE

DETAILS OF ESTIMATE

PLAN ITEM: 000137253

VERSION: 1

## PURPOSE, JUSTIFICATION AND DESCRIPTION

BNSF TO PROVIDE FLAGGING AND INSPECTION TO WIDEN BASELINE AVE BRIDGE/215 FREEWAY  
100% BILLABLE TO SANBAG  
RDM JIMMY CAPPS DE ADAM RICHARDSON

### MAINTAIN PROPRIETARY CONFIDENTIALITY

THE PHYSICAL LIMITS OF THIS PROJECT ARE DESCRIBED BY LINE SEGMENT, MILE POST RANGES, AND IN SOME CASES TRACK NUMBER. THIS IS THE PRIMARY AREA FOR THE PROJECT. THERE WILL BE CASES WHERE WORK MAY OCCUR BEYOND THE DEFINED LIMITS.

PROJECTS THAT INCLUDE SIGNAL, ELECTRICAL, OR TELECOMMUNICATION EQUIPMENT MAY REQUIRE ACTIVITY BEYOND THESE DEFINED TRACK LIMITS. ALL OR PORTIONS OF SOME PROJECTS MAY OCCUR IN AREAS WHERE NO MILEPOST SIGNS EXIST SUCH AS YARDS.

THIS ESTIMATE IS GOOD FOR 90 DAYS. THEREAFTER THE ESTIMATE IS SUBJECT TO CHANGE IN COST FOR LABOR, MATERIAL, AND OVERHEAD.

DESCRIPTION	QUANTITY U/M	COST	TOTAL \$
*****			
LABOR			
*****			
FLAGGING - OTHER R.O.W.- CAP	8100.0 MH	195,237	
PAYROLL ASSOCIATED COSTS		85,904	
DA OVERHEADS		400,235	
TOTAL LABOR COST		681,376	681,376
*****			
MATERIAL			
*****			
TOTAL MATERIAL COST		0	0
*****			
OTHER			
*****			
CONTRACT PREPARATION	1.0 LS	10,000	
INSPECTION / COORDINATION	135.0 DAY	81,000	
TOTAL OTHER ITEMS COST		91,000	91,000
PROJECT SUBTOTAL			772,376
CONTINGENCIES			15,447
BILL PREPARATION FEE			0
GROSS PROJECT COST			787,823
LESS COST PAID BY BNSF			0
TOTAL BILLABLE COST			787,823

## SANBAG Contract No. C09111

by and between

San Bernardino County Transportation Authority

and

California Department of Transportation and BNSF Railroad

for

Construction and Maintenance Agreement for I-215 Segment 2 16th Street Overhead

FOR ACCOUNTING PURPOSES ONLY				
<input checked="" type="checkbox"/> Payable <input type="checkbox"/> Receivable	Vendor Contract # _____ Vendor ID _____	Retention: <input type="checkbox"/> Yes _____ % <input checked="" type="checkbox"/> No	<input checked="" type="checkbox"/> Original <input type="checkbox"/> Amendment	
Notes:				
Original Contract:      \$ <u>787,823</u>  Contingency Amount:    \$ _____	Previous Amendments Total:                      \$ _____ Previous Amendments Contingency Total:        \$ _____ Current Amendment:                                      \$ _____ Current Amendment Contingency:                      \$ _____ Contingency Amount requires specific authorization by Task Manager prior to release.			
Contract TOTAL →				\$ <u>787,823.00</u>
↓ Please include funding allocation for the original contract or the amendment.				
<u>Task</u>	<u>Cost Code</u>	<u>Funding Sources</u>	<u>Grant ID</u>	<u>Amounts</u>
83810000	5553	CMIA	TBD	\$ <u>350,000</u>
83811000	5553	CMIA	TBD	\$ <u>437,823</u>
_____	_____	_____	_____	\$ _____
_____	_____	_____	_____	\$ _____
Original Board Approved Contract Date: <u>12/3/08</u> Contract Start: <u>12/3/08</u> Contract End: <u>12/3/13</u> New Amend. Approval (Board) Date: _____      Amend. Start: _____      Amend. End: _____				
<b>If this is a multi-year contract/amendment, please allocate budget authority among approved budget authority and future fiscal year(s)-unbudgeted obligations:</b>				
Approved Budget Authority →	Fiscal Year: <u>08/09</u> \$ <u>0</u>	Future Fiscal Year(s) – Unbudgeted Obligation →		\$ <u>787,823</u>
Is this consistent with the adopted budget? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If yes, which Task includes budget authority? _____ If no, has the budget amendment been submitted? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				
CONTRACT MANAGEMENT				
Please mark an "X" next to all that apply:				
<input checked="" type="checkbox"/> Intergovernmental <input checked="" type="checkbox"/> Private <input type="checkbox"/> Non-Local <input type="checkbox"/> Local <input type="checkbox"/> Partly Local				
Disadvantaged Business Enterprise: <input type="checkbox"/> No <input type="checkbox"/> Yes _____ %				
Task Manager: <u>Garry Cohoe</u>			Contract Manager: <u>Dennis Saylor</u>	

Task Manager Signature

Date

Contract Manager Signature

Date

Chief Financial Officer Signature

Date

## OVERHEAD AGREEMENT

BNSF File No. 026110K  
16th. Street Overhead  
U.S. D.O.T. No. 026110K

This Agreement ("**Agreement**"), is executed to be effective as of this \_\_\_\_\_ day of \_\_\_\_\_, 2008 ("**Effective Date**"), by and between BNSF RAILWAY COMPANY, a Delaware corporation ("**BNSF**"), and the STATE OF CALIFORNIA, acting through the Department of Transportation, hereinafter referred to as ("**STATE**") and the **SAN BERNARDINO ASSOCIATED GOVERNMENTS**, a body corporate and politic of the State of California, hereinafter referred to as ("**SANBAG**").

### RECITALS:

WHEREAS, BNSF owns and operates a line of railroad in and through the City of San Bernardino, County of San Bernardino, State of California;

WHEREAS, STATE and The Atchison, Topeka and Santa Fe Railway Company, predecessor in interest to BNSF, hereinafter referred to as ("**Santa Fe**"), entered into an agreement dated February 27, 1958, carried in BNSF's records as Contract No. CL-61878, ("**Original Agreement**") which provided for the construction and maintenance of five (5) grade separation structures comprising of Ninth Street, Baseline Street, 16<sup>th</sup> Street, Massachusetts Avenue, and 27<sup>th</sup> Street Overheads, over and across BNSF's rail corridor hereinafter referred to as ("**Rail Corridor**"), and over its tracks;

WHEREAS, this Agreement covers the demolition and reconstruction of the 16th Street Overhead only;

WHEREAS, STATE and the San Bernardino Associated Governments hereinafter referred to as "SANBAG", propose to reconstruct Interstate Highway I-215, through the City of San Bernardino, in order to accommodate the construction of High Occupancy Vehicle (HOV) lanes involving the demolition and reconstruction of the 16th. Street Overhead by means of a six span 675 ft-9 in. long cast-in-place post-tensioned box girder bridge supported on multi-column bents and short seat abutments all supported on driven steel pipe pile foundations;

WHEREAS, STATE and SANBAG have entered into a Design Cooperative Agreement, dated September 3, 2008 providing for SANBAG's design for the reconstruction of the Segment 2 portion of the Interstate Highway I-215 reconstruction project, which includes the reconstruction of the 16th. Street Overhead.

WHEREAS, STATE and SANBAG will enter into a Construction Cooperative Agreement prior to the start of construction of the Project as described in Article I, Section 1 of this Agreement, that will provide for SANBAG's construction of the **Project** with STATE owning and maintaining the **Structure** as described in Article I, Section 1.

NOW, THEREFORE, in consideration of the mutual covenants and agreements of the parties contained herein, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

### **ARTICLE I – SCOPE OF WORK**

1. The term "**Project**" as used herein includes any and all work related to the removal of the existing 16th. Street Overhead and the construction of a replacement 16th. Street Overhead, (hereinafter referred to as the "**Structure**"), more particularly described on the Exhibit A attached hereto and incorporated herein, including, but not limited to, any and all changes to telephone, telegraph, signal and electrical lines and appurtenances, temporary and permanent track work, fencing, grading, alterations to

or new construction of drainage facilities, preliminary and construction engineering and contract preparation.

## ARTICLE II – BNSF OBLIGATIONS

In consideration of the covenants of STATE and SANBAG set forth herein and the faithful performance thereof, BNSF agrees as follows:

1. Upon STATE's payment to BNSF of the sum of One Hundred Ten Thousand Five Hundred and Fifty-two and No/100 DOLLARS (\$110,552.00), BNSF shall grant to SANBAG, their successors and assigns, upon and subject to the terms and conditions set forth in this Agreement, a temporary non-exclusive license (hereinafter called, "Temporary Construction License") to construct the Structure across or upon the portion of BNSF's Rail Corridor described further on Exhibit A, excepting and reserving BNSF's rights, and the rights of any others who have obtained, or may obtain, permission or authority from BNSF, to do the following:

- (a) Operate, maintain, renew and/or relocate any and all existing railroad track or tracks, wires, pipelines and other facilities of like character upon, over or under the surface of said rail corridor;
- (b) Construct, operate, maintain, renew and/or relocate upon said Rail Corridor, without limitation, such facilities as the BNSF may from time to time deem appropriate, provided such facilities do not materially interfere with STATE's use of the Structure;
- (c) Otherwise use or operate the Rail Corridor as BNSF may from time to time deem appropriate, provided such use or operations does not materially interfere with STATE's use of the Structure.

The Temporary Construction License shall be in the form attached hereto as Exhibit B and by this reference made a part hereof, and shall be for a term beginning on the authorized commencement date as set forth in Article III, Section 10 (c) (ii) and ending on the earlier of (i) completion of the Structure, or (ii) Sixty (60) months following the Effective Date of the Temporary Construction License. The Temporary Construction License and related rights to be given by BNSF to STATE and SANBAG shall be without warranty of title of any kind, express or implied, and no covenant of warranty of title will be implied from the use of any word or words therein contained. The Temporary Construction License shall be for the Project and for no other purpose. STATE acknowledges and agrees that STATE shall not have the right, under the Temporary Construction License, to use the Structure. In the event STATE or SANBAG is evicted by anyone owning, or claiming title to or any interest in said Rail Corridor, BNSF will not be liable to STATE or SANBAG for any damages, losses or any expenses of any nature whatsoever. The granting of similar rights to others, subsequent to the date of this Agreement, will not impair or interfere with the rights granted to STATE pursuant to the Temporary Construction License.

Upon payment to BNSF of the additional sum of Five Thousand Three Hundred and Ninety-Six and No/100 DOLLARS (\$5,396.00), such payment to be made within thirty (30) days of the giving of the notice required pursuant to Article III, Section 15 of this Agreement, BNSF shall deliver to STATE, its successors and assigns, a perpetual easement to enter upon and use that portion of BNSF's Rail Corridor described therein as is necessary to use and maintain the Structure. The Easement shall be in the form attached hereto as Exhibit B-1 and by this reference made a part hereof.

2. BNSF will furnish all labor, materials, tools, and equipment for railroad work required for the construction of the Project, such railroad work and the estimated cost thereof being as shown on Exhibit D attached hereto and made a part hereof. In the event construction on the Project has not commenced within six (6) months following the Effective Date, BNSF may, in its sole and absolute discretion, revise the cost estimates set forth in said Exhibit D. In such event, the revised cost estimates will become a part of this Agreement as though originally set forth herein. Any item of work incidental to the items listed on Exhibit D not specifically mentioned therein may be included as a part of this Agreement upon written



approval of SANBAG, which approval will not be unreasonably withheld. Construction of the Project will include the following principle elements of railroad work by BNSF:

- (a) Procurement of materials, equipment and supplies necessary for the railroad work;
- (b) Preliminary engineering, design, and contract preparation;
- (c) Furnishing of flagging services necessary for the safety of BNSF's property and the operation of its trains during construction of the Project as set forth in further detail on Exhibit C, attached to this Agreement and made a part hereof;
- (d) Furnishing engineering and inspection as required in connection with the construction of the Project;
- (e) Providing a contract project coordinator, at SANBAG's expense, to serve as a project manager for the Project and;
- (f) Protect the track for train operations during the removal of the footing for existing Bent No. 3 from BNSF property

3. BNSF will do all railroad work set forth in Article II, Section 2 above on an actual cost basis, when BNSF, in its sole discretion, determines it is required by its labor agreements to perform such work with its own employees working under applicable collective bargaining agreements or by contractor(s) if necessary.

4. SANBAG agrees to reimburse BNSF for work of an emergency nature caused by SANBAG or SANBAG's contractor in connection with the Project which is reasonably necessary for the immediate restoration of railroad operations, or for the protection of persons or BNSF property. Such work may be performed by BNSF without prior approval of SANBAG and SANBAG agrees to fully reimburse BNSF for all such emergency work.

5. BNSF may charge SANBAG for insurance expenses, including self-insurance expenses, when such expenses cover the cost of Employer's Liability (including, without limitation, liability under the Federal Employer's Liability Act) in connection with the construction of the Project. Such charges will be considered part of the actual cost of the Project, regardless of the nature or amount of ultimate liability for injury, loss or death to BNSF's employees, if any.

6. During the construction of the Project, BNSF will send SANBAG progressive invoices detailing the costs of the railroad work performed by BNSF under this Agreement. Pursuant to the California Prompt Payment Act, CALIFORNIA CODES, GOVERNMENT CODE, SECTION 927-927.12., SANBAG must reimburse BNSF for completed force-account work within forty-five (45) calendar days from the date of SANBAG's receipt of the invoice for such work. Upon completion of the Project, BNSF will send SANBAG a detailed invoice of final costs, segregated as to labor and materials for each item in the recapitulation shown on Exhibit D. If SANBAG fails to make payment of a BNSF invoice within said forty-five (45) days, SANBAG shall pay a penalty at a rate of 1 percent above the rate accrued on June 30 of the prior year by the Pooled Money Investment Account, not to exceed a rate of 15 percent pursuant to Section 927.6 (b) of said Government Code.

### **ARTICLE III – SANBAG OBLIGATIONS**

In consideration of the covenants of STATE and BNSF set forth herein and the faithful performance thereof, SANBAG agrees as follows:

1. SANBAG shall furnish to BNSF and STATE plans and specifications for the Project together with calculations with the railroad clearances expressed in **English Units**. One complete reduced size 11" x 17" paper copy shall be submitted to BNSF's Assistant Director of Structural Engineering. A PDF copy of

the plans and specifications should be sent to both BNSF'S Manager Public Projects and BNSF'S Assistant Director Structural Engineering. The PDF copy with a file size of two (2) megabytes or less should be sent via an email attachment. Should the PDF copy of the plans and specifications exceed two (2) megabytes, a CD (Compact Disk) of the plans and specifications should be sent via overnight mail service to both BNSF offices. The email and mailing addresses are included in Article V, Section 23. Sets of said plans shall be submitted to BNSF and STATE for approval prior to commencement of any construction. BNSF will give SANBAG final written approval of the plans and specifications substantially in the form of Exhibit E, attached to this Agreement and made a part hereof. Upon BNSF'S final written approval of the plans and specifications, said plans and specifications will become part of this Agreement and are hereby incorporated herein. Any approval of the plans and specifications by BNSF shall in no way obligate BNSF in any manner with respect to the finished product design and/or construction. Any approval by BNSF shall mean only that the plans and specifications meet BNSF standard specifications, and such approval by BNSF shall not be deemed to mean that the plans and specifications or construction is structurally sound and appropriate or that such plans and specifications meet applicable regulations, laws, statutes or local ordinances and/or building codes.

2. SANBAG must provide for and maintain minimum vertical and horizontal clearances, as required and approved by BNSF as part of the plans and specifications for the Project.

3. SANBAG must make any and all arrangements for the installation or relocation of wire lines, pipe lines and other facilities owned by private persons, companies, corporations, political subdivisions or public utilities other than BNSF which may be necessary for the construction of the Project.

4. SANBAG must construct the Project as shown on the attached Exhibit A and do all work ("**SANBAG's Work**") provided for in the plans and specifications for the Project, except railroad work that will be performed by BNSF herein. SANBAG must furnish all labor, materials, tools and equipment for the performance of SANBAG's Work. The principal elements of SANBAG's Work are as follows:

- (a) Preliminary and final Engineering;
- (b) Demolition and removal of the existing 16th. Street Overhead;
- (c) Design and the Construction of the Structure;
- (d) All necessary grading and paving, including backfill of excavations and restoration of disturbed vegetation on BNSF's Rail Corridor;
- (e) Provide suitable drainage, both temporary and permanent;
- (f) Apply the D.O.T. Crossing Number 026110K in a conspicuous location on the Structure.
- (g) Job site cleanup including removal of all construction materials, concrete debris, surplus soil, refuse, contaminated soils, asphalt debris, litter and other waste materials to the satisfaction of BNSF;

5. SANBAG will install tie backs on BNSF's property required for installation of temporary shoring needed to construct a permanent retaining wall on State right of way with the retaining wall more or less paralleling the Rail Corridor. Upon removal of the temporary shoring, BNSF has agreed to allow the tie backs to be abandoned in place on BNSF's Rail Corridor as shown on Exhibit A.

6. SANBAG shall remove the portion of the footing for existing Bent No. 3 that is located on BNSF property; conditioned upon BNSF granting a work window for this task.

7. SANBAG's Work must be performed by SANBAG or SANBAG's contractor in a manner that will not endanger or interfere with the safe and timely operations of BNSF and its facilities.

8. SANBAG must require its contractor(s) to notify BNSF's Roadmaster at least thirty (30) calendar days prior to requesting a BNSF flagman in accordance with the requirements of Exhibit C attached

hereto. Additionally, SANBAG must require its contractor(s) to notify BNSF's Manager of Public Projects thirty (30) calendar days prior to commencing work on BNSF property or near BNSF tracks.

9. SANBAG or its contractor(s) shall submit one reduced size 11" x 17" paper copy, including calculations, expressed in **English Units** of the plans and specifications for proposed shoring, falsework, or cribbing to be used over, under, or adjacent to BNSF'S tracks to BNSF'S Assistant Director Structural Engineering. SANBAG or its contractor(s) shall submit a PDF copy of the plans and specifications for the proposed shoring, falsework, or cribbing to both BNSF'S Manager Public Projects and BNSF'S Assistant Director Structural Engineering. The PDF copy with a file size of two (2) megabytes or less should be sent via an email attachment. Should the PDF copy of the plans and specifications exceed two (2) megabytes, a CD (Compact Disk) of the plans and specifications should be sent via overnight mail service to both BNSF offices for approval. The email and mailing addresses are included in Article V, Section 23. The shoring, falsework or cribbing used by SANBAG'S contractor shall comply with the BNSF Bridge Requirements set forth on Exhibit F, and BNSF's Instructions FOR PREPARATION OF DEMOLITION PLANS as set forth in Exhibit G with both Exhibits attached to this Agreement and incorporated herein, and all applicable requirements promulgated by state and federal agencies, departments, commissions and other legislative bodies.

Falsework shall be designed according to the State of California, Department of Transportation FALSEWORK MANUAL available at this Web Site:  
<http://www.dot.ca.gov/hq/esc/construction/manuals/Falsework/>.

10. SANBAG must include the following provisions in any contract with its contractor(s) performing work on said Project:

- (a) The Contractor is placed on notice that fiber optic, communication and other cable lines and systems (collectively, the "Lines") owned by various telecommunications companies may be buried on BNSF's property or Rail Corridor. The locations of these Lines have been included on the plans based on information from the telecommunications companies. The contractor will be responsible for contacting BNSF's Project Engineer at telephone number 909 386 4079 and/or the telecommunications companies and notifying them of any work that may damage these Lines or facilities and/or interfere with their service. The contractor must also mark all Lines shown on the plans or marked in the field in order to verify their locations. The contractor must also use all reasonable methods when working in the BNSF Rail Corridor or on BNSF property to determine if any other Lines (fiber optic, cable, communication or otherwise) may exist.
- (b) Failure to mark or identify these Lines will be sufficient cause for any BNSF Representative to stop construction at no cost to SANBAG or BNSF until these items are completed.
- (c) In addition to the liability terms contained elsewhere in this Agreement, the contractor hereby indemnifies, defends and holds harmless BNSF for, from and against all cost, liability, and expense whatsoever (including, without limitation, attorney's fees and court costs and expenses) arising out of or in any way contributed to by any act or omission of Contractor, its subcontractors, agents and/or employees that cause or in any way or degree contribute to (1) any damage to or destruction of any Lines by Contractor, and/or its subcontractors, agents and/or employees, on BNSF's property or within BNSF's Rail Corridor, (2) any injury to or death of any person employed by or on behalf of any telecommunications company, and/or its contractor, agents and/or employees, on BNSF's property or within BNSF's Rail Corridor, and/or (3) any claim or cause of action for alleged loss of profits or revenue by, or loss of service by a customer or user of such telecommunication company(ies). **THE LIABILITY ASSUMED BY CONTRACTOR WILL NOT BE AFFECTED BY THE FACT, IF IT IS A FACT, THAT THE DAMAGE, DESTRUCTION, INJURY, DEATH, CAUSE OF ACTION OR CLAIM WAS OCCASIONED BY OR CONTRIBUTED TO BY THE NEGLIGENCE OF BNSF, ITS AGENTS, SERVANTS, EMPLOYEES OR**

**OTHERWISE, EXCEPT TO THE EXTENT THAT SUCH CLAIMS ARE PROXIMATELY CAUSED BY THE WILLFUL MISCONDUCT OR SOLE NEGLIGENCE OF BNSF.**

- (d) The Contractor will be responsible for the rearrangement of any facilities or Lines determined to interfere with the construction. The Contractor must cooperate fully with any telecommunications company(ies) in performing such rearrangements.

11. SANBAG must incorporate in each prime contract for construction of the Project, or the specifications therefore (i) the provisions set forth in Article III, Sections 5, 6, 7, 8, 9, 10 and 12; (ii) the provisions set forth in Article V, Sections 1, 2, 3, 4, 5, 6, 7, 11 and 12; and (iii) the provisions set forth in Exhibit C, Exhibit C-I, Exhibit F and Exhibit G, with the herein referenced Exhibits attached hereto and by reference made a part hereof.

12. Except as otherwise provided below in this Section 12, all construction work performed hereunder by SANBAG for the Project will be pursuant to a contract or contracts to be let by SANBAG, and all such contracts must include the following:

- (a) All work performed under such contract or contracts within the limits of BNSF's Rail Corridor must be performed in a good and workmanlike manner in accordance with plans and specifications approved by BNSF;
- (b) Changes or modifications during construction that affect safety or BNSF operations must be subject to BNSF's approval;
- (c) No work will be commenced within BNSF's Rail Corridor until each of the prime contractors employed in connection with said work must have (i) executed and delivered to BNSF a letter agreement in the form of Exhibit C-I, and (ii) delivered to and secured BNSF's approval of the required insurance; and
- (d) If it is in SANBAG's best interest, SANBAG may direct that the construction of the Project be done by day labor under the direction and control of SANBAG, or if at any time, in the opinion of SANBAG, the contractor has failed to prosecute with diligence the work specified in and by the terms of said contract, SANBAG may terminate its contract with the contractor and take control over the work and proceed to complete the same by day labor or by employing another contractor(s) provided; however, that any contractor(s) replacing the original contractor(s) must comply with the obligations in favor of BNSF set forth above and, provided further, that if such construction is performed by day labor, SANBAG will, at its expense, procure and maintain on behalf of BNSF the insurance required by Exhibit C-1.
- (e) To facilitate scheduling for the Project, SANBAG shall have its contractor give BNSF's Project Engineer at telephone number 909 386 4079 eight (8) weeks advance notice of the proposed times and dates for work windows. BNSF and SANBAG's contractor will establish mutually agreeable work windows for the Project. SANBAG shall inform its contractor that any request for work windows with less than eight (8) weeks advance notice will have a reduced probability of approval. BNSF has the right at any time to revise or change the work windows, due to train operations or service obligations. BNSF will not be responsible for any additional costs and expenses resulting from a change in work windows. Additional costs and expenses resulting from a change in work windows shall be accounted for in the contractor's expenses for the Project.
- (f) The plans and specifications for the Project must be in compliance with the Bridge Requirements set forth in Exhibit F and the INSTRUCTIONS FOR PREPARATION OF DEMOLITION PLANS set forth in Exhibit G, with both Exhibits attached to this Agreement and incorporated herein.

13. SANBAG must advise the BNSF Manager of Public Projects, in writing, of the completion date of the Project within thirty (30) days after such completion date. Additionally, SANBAG must notify BNSF's

Manager of Public Projects, in writing, of the date on which SANBAG, and/or STATE and/or SANBAG's Contractor will meet with BNSF for the purpose of making final inspection of the Project.

14. TO THE FULLEST EXTENT PERMITTED BY LAW, SANBAG HEREBY RELEASES, INDEMNIFIES, DEFENDS AND HOLDS HARMLESS BNSF, ITS AFFILIATED COMPANIES, PARTNERS, SUCCESSORS, ASSIGNS, LEGAL REPRESENTATIVES, OFFICERS, DIRECTORS, SHAREHOLDERS, EMPLOYEES AND AGENTS FOR, FROM AND AGAINST ANY AND ALL CLAIMS, LIABILITIES, FINES, PENALTIES, COSTS, DAMAGES, LOSSES, LIENS, CAUSES OF ACTION, SUITS, DEMANDS, JUDGMENTS AND EXPENSES (INCLUDING, WITHOUT LIMITATION, COURT COSTS AND ATTORNEYS' FEES) OF ANY NATURE, KIND OR DESCRIPTION OF ANY PERSON (INCLUDING, WITHOUT LIMITATION, THE EMPLOYEES OF THE PARTIES HERETO) OR ENTITY DIRECTLY OR INDIRECTLY ARISING OUT OF, RESULTING FROM OR RELATED TO (IN WHOLE OR IN PART) (I) THE USE, OCCUPANCY OR PRESENCE OF SANBAG, ITS CONTRACTORS, SUBCONTRACTORS, EMPLOYEES OR AGENTS IN, ON, OR ABOUT THE CONSTRUCTION SITE, (II) THE PERFORMANCE, OR FAILURE TO PERFORM BY SANBAG, ITS CONTRACTORS, SUBCONTRACTORS, EMPLOYEES, OR AGENTS, ITS WORK OR ANY OBLIGATION UNDER THIS AGREEMENT, (III) THE SOLE OR CONTRIBUTING ACTS OR OMISSIONS OF SANBAG, ITS CONTRACTORS, SUBCONTRACTORS, EMPLOYEES, OR AGENTS IN, ON, OR ABOUT THE CONSTRUCTION SITE, (IV) SANBAG'S BREACH OF THE TEMPORARY CONSTRUCTION LICENSE GRANTED TO SANBAG PURSUANT TO ARTICLE II OF THIS AGREEMENT, (V) ANY RIGHTS OR INTERESTS GRANTED TO SANBAG PURSUANT TO THE TEMPORARY CONSTRUCTION LICENSE DISCUSSED IN ARTICLE II OF THIS AGREEMENT, (VI) SANBAG'S OCCUPATION AND USE OF BNSF'S PROPERTY OR RAIL CORRIDOR, OR (VII) AN ACT OR OMISSION OF SANBAG OR ITS OFFICERS, AGENTS, INVITEES, EMPLOYEES OR CONTRACTORS OR ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY ANY OF THEM, OR ANYONE THEY CONTROL OR EXERCISE CONTROL OVER. THE LIABILITY ASSUMED BY SANBAG WILL NOT BE AFFECTED BY THE FACT, IF IT IS A FACT, THAT THE DAMAGE, DESTRUCTION, INJURY OR DEATH WAS OCCASIONED BY OR CONTRIBUTED TO BY THE NEGLIGENCE OF BNSF, ITS AGENTS, SERVANTS, EMPLOYEES OR OTHERWISE, EXCEPT TO THE EXTENT THAT SUCH CLAIMS ARE PROXIMATELY CAUSED BY THE WILLFUL MISCONDUCT OR SOLE NEGLIGENCE OF BNSF.

15. SANBAG must give BNSF's Manager of Public Projects written notice to proceed ("**Notice to Proceed**") with the railroad work after receipt of necessary funds for the Project. BNSF will not begin the railroad work (including, without limitation, procurement of supplies, equipment or materials) until written notice to proceed is received from SANBAG. The Notice to Proceed must reference BNSF's file number 026110K.

#### **ARTICLE IV - STATE OBLIGATIONS**

**IN CONSIDERATION** of the covenants of BNSF and SANBAG herein contained and the faithful performance thereof, STATE agrees:

1. To permit SANBAG to act as the responsible lead agency to design and construct the Project.
2. STATE must make application to the Public Utilities Commission of the State of California ("**Commission**") for an order authorizing construction of the Project and to furnish to the Commission plans of the proposed construction, approved by BNSF, together with a copy of this agreement and to obtain all other required permits and approvals for the construction of the Project.
3. STATE will acquire all properties required to construct the Project and maintain the Structure;
4. In addition to the terms and conditions set forth elsewhere in this Agreement, including, but not limited to, the terms and conditions stated in Exhibit F, BNSF and STATE agree to the following terms upon completion of construction of the Project:

- (a) STATE will own and maintain, at its sole cost and expense, the Structure, the highway approaches, and appurtenances thereto, lighting, drainage and any access roadways to BNSF gates installed pursuant to this Agreement.
- (b) STATE will arrange for removal of graffiti from the Structure;
- (c) STATE must maintain D.O.T. Crossing Number 026110K in legible condition in the conspicuous location on the Structure where applied by SANBAG during construction;
- (d) It is understood by STATE that the right to install utilities is restricted to the placement of underground utilities beneath BNSF's tracks located a minimum of fifty (50) feet from abutments, piers, piles, or footings with the exception that upon BNSF's prior approval BNSF will permit selected utilities to be run through the deck of the Structure. Under no circumstances will utilities be allowed to hang from the Structure. All utility crossings within the limits of BNSF's Rail Corridor will be covered by separate agreements between BNSF and each of the owners of the utilities.
- (e) Upon request from BNSF, STATE shall remove all trash and debris associated with the Structure from BNSF's property.
- (f) In conformance with and limited to the applicable effect of California Laws insofar as the indemnity and insurance provisions set forth in any of the preceding sections or any rider, amendment or addendum hereto, State is self-insured. If State performs (i) alterations or modifications to the Structure, or (ii) any maintenance or other work on the Structure with heavy tools, equipment or machinery at ground surface level horizontally within 25'-0" of the centerline of the nearest track, or (iii) any maintenance or other work outside the limits of the deck of the Structure vertically above the top of the rail, then STATE, shall provide BNSF defense and indemnification at least equal to the defense, indemnification and insurance provisions contained in Exhibit C-1 in accordance with California Government Code section 14662.5. Nothing herein shall be deemed to insure BNSF against its sole negligence or willful misconduct.

In the event any of the Work to be done on behalf of STATE upon BNSF's Rail Corridor is to be done by a contractor or subcontractor, said contractor or subcontractor shall provide to BNSF the insurance policies, certificates, binders, and/or endorsements in favor of BNSF as contained in said Exhibit C-1 as the same may be revised from time to time.

5. Subject to the restrictions imposed by Article V, Section 11 below, STATE must notify and obtain prior authorization from BNSF's Manager of Public Projects before entering BNSF's Rail Corridor for maintenance purposes. If the construction work hereunder is contracted, STATE must require its prime contractor(s) to comply with the obligations set forth in Exhibit C, Exhibit C-1 and Exhibit F, as the same may be revised from time to time. STATE will be responsible for its contractor(s) compliance with such obligations.

6. **PURSUANT TO CALIFORNIA GOVERNMENT CODE SECTION 14662.5, STATE HEREBY AGREES TO INDEMNIFY AND HOLD HARMLESS BNSF FROM, AND TO REPAIR OR PAY FOR, ANY DAMAGE PROXIMATELY CAUSED BY REASON OF THE USES AUTHORIZED BY THE EASEMENT SET FORTH IN EXHIBIT B-1 TO THIS AGREEMENT, AND THE TEMPORARY CONSTRUCTION LICENSE SET FORTH IN EXHIBIT B TO THIS AGREEMENT.**

## **ARTICLE V – JOINT OBLIGATIONS**

IN CONSIDERATION of the premises, the parties hereto mutually agree to the following:

- 1. All work contemplated in this Agreement must be performed in a good and workmanlike manner and each portion must be promptly commenced by the party obligated hereunder to perform the same

and thereafter diligently prosecuted to conclusion in its logical order and sequence. Furthermore, any changes or modifications during construction which affect BNSF will be subject to BNSF's approval prior to the commencement of any such changes or modifications.

2. The work hereunder must be done in accordance with the Bridge Requirements set forth on Exhibit F, the Instructions For Preparation Of Demolition Plans as set forth in Exhibit G, and the detailed plans and specifications approved by BNSF.

3. SANBAG must require its contractor(s) to reasonably adhere to the Project's construction schedule for all Project work. The parties hereto mutually agree that BNSF's failure to complete the railroad work in accordance with the construction schedule due to inclement weather or unforeseen railroad emergencies will not constitute a breach of this Agreement by BNSF and will not subject BNSF to any liability. Regardless of the requirements of the construction schedule, BNSF reserves the right to reallocate the labor forces assigned to complete the railroad work in the event of an emergency to provide for the immediate restoration of railroad operations (BNSF or its related railroads) or to protect persons or property on or near any BNSF owned property. BNSF will not be liable for any additional costs or expenses resulting from any such reallocation of its labor forces. The parties mutually agree that any reallocation of labor forces by BNSF pursuant to this provision and any direct or indirect consequences or costs resulting from any such reallocation will not constitute a breach of this Agreement by BNSF.

4. BNSF shall have the right to request any SANBAG employee, or STATE employee, who enters BNSF's Rail Corridor and because of their incompetence, neglect of duty, unsafe conduct or misconduct and/or they adversely affected BNSF's operations or facilities, be removed from the Rail Corridor. In the event SANBAG, or STATE elects not to honor such request, BNSF may stop work within its Rail Corridor until the matter has been fully resolved to BNSF's satisfaction. The party whose employee has been asked to leave the Rail Corridor will indemnify BNSF and the other parties against any claims arising from such removal.

5. BNSF will have the right to stop construction work on the Project if any of the following events take place: (i) Contractor (or any of its subcontractors) performs the Project work in a manner contrary to the plans and specifications approved by BNSF; (ii) Contractor (or any of its subcontractors), in BNSF's opinion, prosecutes the Project work in a manner which is hazardous to BNSF property, facilities or the safe and expeditious movement of railroad traffic; (iii) the insurance described in the attached Exhibit C-1 is canceled during the course of the Project; or (iv) STATE fails to pay BNSF for the Temporary Construction License or the Easement pursuant to Article II, Section 1 of this Agreement. The work stoppage will continue until all necessary actions are taken by STATE, Contractor or its subcontractor to rectify the situation to the satisfaction of BNSF's Division Engineer or until additional insurance has been delivered to and accepted by BNSF. In the event of a breach of (i) this Agreement, (ii) the Temporary Construction License, or (iii) the Easement, BNSF may immediately terminate the Temporary Construction License or the Easement. Any such work stoppage under this provision will not give rise to any liability on the part of BNSF. BNSF's right to stop the work is in addition to any other rights BNSF may have including, but not limited to, actions or suits for damages or lost profits. In the event that BNSF desires to stop construction work on the Project, BNSF agrees to immediately notify the following individual in writing:

SANBAG Director of Freeway Construction  
1170 W. 3rd Street, 2nd Floor  
San Bernardino, CA 92410  
Fax: (909) 388-2002.

6. SANBAG's or any STATE employee, agents, contractors, representatives and invitees shall wear Personal Protective Equipment ("PPE") when on the BNSF's Rail Corridor during construction of the Project or performing subsequent maintenance after completion of construction. The PPE shall meet applicable OSHA and ANSI specifications. Current BNSF PPE requirements are listed on the web site, [www.contractororientation.com](http://www.contractororientation.com). A partial list of BNSF's PPE requirements include: a) safety glasses: permanently affixed side shields; no yellow lenses, b) hard hats with high visibility orange cover, c) safety shoes: hardened toe, above-the-ankle lace-up with a defined heel and d), high visibility retro-reflective orange vests are required as specified by BNSF's representative in charge of the Project. PPE

requirements as defined on the web site, will be amended from time to time, and shall take precedence over the Partial list of requirements outlined in this Section 6 of Article V. Hearing protection, fall protection and respirators will be worn as required by State and Federal regulations.

7. SANBAG must supervise and inspect the operations of all SANBAG contractors to assure compliance with the plans and specifications approved by BNSF, the terms of this Agreement and all safety requirements of the BNSF railroad. If BNSF determines that proper supervision and inspection is not being performed by SANBAG personnel at any time during construction of the Project, BNSF has the right to stop construction (within or adjacent to its operating Rail Corridor). Construction of the Project will not proceed until SANBAG corrects the situation to BNSF's reasonable satisfaction. If BNSF feels the situation is not being corrected in an expeditious manner, BNSF will immediately notify SANBAG Director of Freeway Construction for appropriate corrective action.

8. The Project funding is contemplated to come from mixed sources including Federal funds. Pursuant FEDERAL-AID POLICY GUIDE, dated December 9, 1991, Transmittal 1 23 CFR 646B which states projects for the reconstruction of existing grade separations are deemed to generally be of no ascertainable net benefit to the railroad and there shall be no required railroad share of the costs, unless the railroad has a specific contractual obligation with the State or its political subdivision to share in the costs. Additionally pursuant to the Commission's Code 1202.5 (d) BNSF is not required to contribute to the cost to reconstruct the 16<sup>th</sup>. Street Overhead as BNSF did not contribute to the cost to construct the existing 16<sup>th</sup>. Street Overhead.

9. Pursuant to this section and Article II, Section 6 herein, SANBAG must, out of funds made available to it for the construction of the Project, reimburse BNSF in full for the actual costs of all work performed by BNSF under this Agreement.

10. All expenses detailed in statements sent to SANBAG pursuant to Article II, Section 6 herein will comply with the terms and provisions of the Federal Aid Highway Program Manual, U.S. Department of Transportation, as amended from time to time, which manual is hereby incorporated into and made a part of this Agreement by reference. The parties mutually agree that BNSF's preliminary engineering, design, and contract preparation costs described in Article II, Section 2 herein are part of the costs of the Project even though such work may have preceded the date of this Agreement and the issuance of Notice to Proceed as more particularly described in Article III, Section 15.

11. The parties mutually agree that no construction activities for the Project, nor future maintenance of the Structure once completed, that would interfere with operations of the Rail Corridor will be permitted during the fourth quarter of each calendar year. Emergency work will be permitted only upon prior notification to BNSF's Network Operations Center (telephone number: 800 832-5452). The parties hereto mutually understand and agree that trains cannot be subjected to delay during this time period.

12. Subject to the restrictions imposed by Article V, Section 11 above, the construction of the Project will not commence until SANBAG gives BNSF's Manager of Public Projects thirty (30) days prior written notice of such commencement. The commencement notice will reference BNSF's file number 026110K. and must state the time that construction activities will begin.

13. Within 90 days of the conclusion of the Project and final acceptance by BNSF, SANBAG must provide BNSF with a complete electronic set of the bridge plans with the railroad clearances (prepared in **English Units**). BNSF will also accept a marked up paper copy of the bridge plans labeled "**As Built**". The marked up copy of those plans will reflect any and all deviations from the original plans that occurred during construction. The electronic set of bridge plans will be submitted in Micro Station \*.dgn electronic format (preferred) or AutoCAD \*.dwg format. Electronic plans are to be submitted in the original format used for CAD plan preparation and not converted to another format prior to submission. The "As Built" plans shall show actual measured "as constructed" clearances as well as depth, size and location of all foundation components. The plans shall show dimensioned locations of existing and relocated utilities. The As Built plans must comply with the Bridge Requirements set forth on Exhibit F and depicts all information in BNSF engineering stationing and mile post pluses. The As Built plans must also include plan and profile, structural bridge drawings and specifications, and drainage plans. All improvements and



facilities must be shown. It is understood that BNSF prefers to receive the "As Built" plans in an electronic format.

14 BNSF may, at its expense, make future changes or additions to the railroad components of the Structure if necessary or desirable, in BNSF's sole discretion, including, without limitation the following: (i) the right to raise or lower the grade or change the alignment of its tracks, (ii) the right to lay additional track or tracks, or (iii) the right to build other facilities in connection with the operation of its railroad. Such changes or additions must not change or alter the highway components of the Structure. If it becomes necessary or desirable in the future to change, alter, widen or reconstruct the highway components of the Structure to accommodate railroad projects, the cost of such work, including any cost incidental to alteration of railroad or highway facilities made necessary by any such changes to the Structure, will be divided between BNSF and STATE in such shares as may be mutually agreed to by the parties hereto. Any alteration or reconstruction of the highway components of the Structure will be covered by a Commission order.

15. STATE may, at STATE's sole expense, alter or reconstruct the highway components of the Structure if necessary or desirable, due to traffic conditions or pedestrian or other recreational traffic, provided, however, that any such alteration or reconstruction must not encroach further upon or occupy the surface of BNSF's Rail Corridor to a greater extent than is contemplated by the plans and specifications to be approved by BNSF pursuant to Article III, Section 1 herein, without obtaining BNSF's prior written consent and the execution of a supplement to this Agreement or the completion of a separate agreement. Any alteration or reconstruction of the highway components of the Structure will be covered by a Commission order.

16. Any books, papers, records and accounts of the parties hereto relating to the work hereunder or the costs or expenses for labor and material connected with the construction will at all reasonable times be open to inspection and audit by the agents and authorized representatives of the parties hereto and the Federal Highway Administration, for a period of three (3) years from the date of the final BNSF invoice under this Agreement.

17. The covenants and provisions of this Agreement are binding upon and inure to the benefit of the successors and assigns of the parties hereto. Notwithstanding the preceding sentence, neither party hereto may assign any of its rights or obligations hereunder without the prior written consent of the other party.

18. In the event construction of the Project does not commence within three (3) years of the Effective Date, this Agreement will become null and void.

19. Neither termination nor expiration of this Agreement will release either party from any liability or obligation under this Agreement, whether of indemnity or otherwise, resulting from any acts, omissions or events happening prior to the date of termination or expiration.

20. To the maximum extent possible, each provision of this Agreement will be interpreted in such a manner as to be effective and valid under applicable law. If any provision of this Agreement is prohibited by, or held to be invalid under, applicable law, such provision will be ineffective solely to the extent of such prohibition or invalidity and the remainder of the provision will be enforceable.

21. Only that portion of the aforesaid Original Agreement between the STATE and Santa Fe that pertains to the 16th. Street Overhead as originally constructed shall terminate on the completion date of the Project as provided for in Article III, Section 13 of this Agreement. The Original Agreement shall remain in full force and effect for the remaining four grade separations, Ninth Street, Baseline Street, Massachusetts Avenue, and 27<sup>th</sup> Street until they are terminated by separate agreement. Such termination shall not release any party thereto from any liability or obligation thereunder, resulting from any act, omission or event happening prior to the date of termination or thereafter, in the event the terms of said Original Agreement provide that anything shall or may be done after termination thereof.

22. This Agreement (including exhibits and other documents, manuals, etc. incorporated herein), together with previously acquired and recorded property rights if any, is the full and complete agreement

between BNSF, STATE and SANBAG with respect to the subject matter herein and supersedes any and all other prior agreements between the parties hereto.

23. Any notice provided for herein or concerning this Agreement must be in writing and will be deemed sufficiently given when sent by certified mail, return receipt requested, to the parties at the following addresses:

BNSF Railway Company:

BNSF's Manager of Public Projects  
740 E. Carnegie Drive  
San Bernardino, CA. 92408  
Email: [Melvin.Thomas@bnsf.com](mailto:Melvin.Thomas@bnsf.com)

Assistant Director Structural Engineering  
4515 Kansas Avenue  
Kansas City, KS 66106  
Email: [Donald.Lozano@bnsf.com](mailto:Donald.Lozano@bnsf.com)

SANBAG:

San Bernardino Associated Governments  
1170 W. 3rd Street, 2<sup>nd</sup>. Floor  
San Bernardino, CA 92410  
Attn. Director of Freeway Construction  
Fax: 909 388 2002

STATE:

Department of Transportation  
Division of Right of Way – Railroad Agreements  
1120 N. Street, MS 37  
Sacramento, CA. 95814

(Signature Page to Follow)

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed and attested by its duly qualified and authorized officials as of the day and year first above written.

**BNSF RAILWAY COMPANY**

By: \_\_\_\_\_  
Printed Name: David L. Freeman  
Title: Vice President Engineering

WITNESS:

\_\_\_\_\_

**SAN BERNARDINO ASSOCIATED GOVERNMENTS**

By: \_\_\_\_\_  
Printed Name: Gary C. Ovitt  
Title: President - Board of Directors

APPROVED AS TO FORM:

\_\_\_\_\_  
Jean-Rene Basle  
SANBAG Counsel

**STATE OF CALIFORNIA**, acting by and through its  
Department of Transportation

By: \_\_\_\_\_  
Printed Name: Donald E. Grebe  
Title: Chief, Office of Project Delivery  
Division of Right of Way and Land Surveys

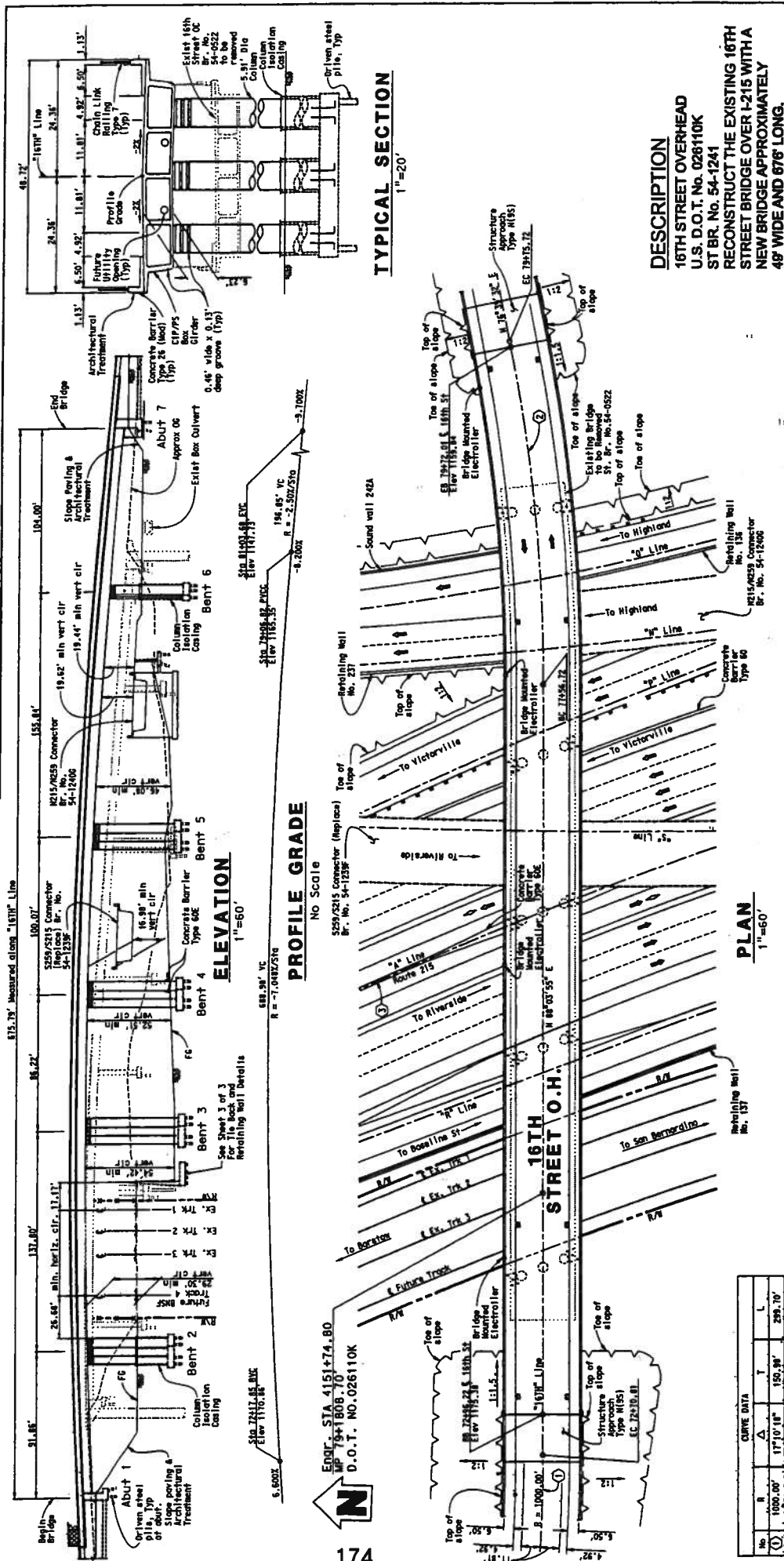
\_\_\_\_\_  
Attorney  
Department of Transportation

\_\_\_\_\_  
Approval Recommended  
Department of Transportation

**EXHIBIT "A"**  
**ATTACHED TO A CONTRACT BETWEEN**  
**BNSF RAILWAY COMPANY**  
**AND**  
**THE STATE OF CALIFORNIA**  
**AND**  
**SAN BERNARDINO ASSOCIATED GOVERNMENTS**

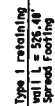
PORT WORTH, TEXAS  
 SCALE AS NOTED  
 CALIFORNIA DIVISION  
 CALVIN SUPERVISOR  
 LINE SEGMENT 2000

DAVID L. FREEMAN  
 VICE PRES. ENGINEERING



## SAN BERNARDINO ASSOCIATED GOVERNMENTS

**BNSF RAILWAY COMPANY  
AND  
THE STATE OF CALIFORNIA**



175

Curve Data "RW 10L" Line

16th Street Overhead  
U.S. D.O.T. No. 02611  
STBR No. 54-1241

RECONSTRUCT THE EXISTING 16TH STREET BRIDGE OVER I-215 WITH A NEW BRIDGE APPROXIMATELY 49' WIDE AND 676' LONG.

**16th STREET OVERHEAD**  
**EXHIBIT "A" Sheet 2 of 3**

## RETAINING WALL 137

## PLAN

1"=200'

FORT WORTH, TEXAS  
SCALE: AS NOTED  
CALIFORNIA DIVISION  
CAJON SUBDIVISION  
LINE SEGMENT 7800

**DAVID L. FREEMAN**  
VICE PRES., ENGINEERING



**16th STREET OVERHEAD**  
**EXHIBIT "A" Sheet 3 of 3**

**DESCRIPTION**  
16TH STREET OVERHEAD  
U.S. D.O.T. No. 028110K  
ST BR. No. 54-1241  
RECONSTRUCT THE EXISTING 16TH  
STREET BRIDGE OVER I-215 WITH A  
NEW BRIDGE APPROXIMATELY  
48' WIDE AND 676' LONG.

# EXHIBIT D

\*\*\*\*\* MAINTAIN PROPRIETARY CONFIDENTIALITY \*\*\*\*\*

## BNSF RAILWAY COMPANY COMPANY ESTIMATE FOR SANBAG

LOCATION ONO

DETAILS OF ESTIMATE

PLAN ITEM : 000137254

VERSION : 1

### PURPOSE, JUSTIFICATION AND DESCRIPTION

BNSF TO PROVIDE FLAGGING AND INSPECTION TO WIDEN 16TH STREET BRIDGE/215 FREEWAY  
100% BILLABLE TO SANBAG  
RDM JIMMY CAPPS DE ADAM RICHARDSON

#### MAINTAIN PROPRIETARY CONFIDENTIALITY

THE PHYSICAL LIMITS OF THIS PROJECT ARE DESCRIBED BY LINE SEGMENT, MILE POST RANGES, AND IN SOME CASES TRACK NUMBER. THIS IS THE PRIMARY AREA FOR THE PROJECT. THERE WILL BE CASES WHERE WORK MAY OCCUR BEYOND THE DEFINED LIMITS.

PROJECTS THAT INCLUDE SIGNAL, ELECTRICAL, OR TELECOMMUNICATION EQUIPMENT MAY REQUIRE ACTIVITY BEYOND THESE DEFINED TRACK LIMITS. ALL OR PORTIONS OF SOME PROJECTS MAY OCCUR IN AREAS WHERE NO MILEPOST SIGNS EXIST SUCH AS YARDS.

THIS ESTIMATE IS GOOD FOR 90 DAYS. THEREAFTER THE ESTIMATE IS SUBJECT TO CHANGE IN COST FOR LABOR, MATERIAL, AND OVERHEAD.

DESCRIPTION	QUANTITY U/M	COST	TOTAL \$
*****			
LABOR			
*****			
FLAGGING - OTHER R.O.W.- CAP	8100.0 MH	195,237	
PAYROLL ASSOCIATED COSTS		85,904	
DA OVERHEADS		400,235	
TOTAL LABOR COST		681,376	681,376
*****			
MATERIAL			
*****			
TOTAL MATERIAL COST		0	0
*****			
OTHER			
*****			
CONTRACT PREPARATION	1.0 LS	10,000	
INSPECTION / COORDINATION	135.0 DAY	81,000	
TOTAL OTHER ITEMS COST		91,000	91,000
PROJECT SUBTOTAL			772,376
CONTINGENCIES			15,447
BILL PREPARATION FEE			0
GROSS PROJECT COST			787,823
LESS COST PAID BY BNSF			0
TOTAL BILLABLE COST			787,823

- San Bernardino County Transportation Commission ■ San Bernardino County Transportation Authority  
■ San Bernardino County Congestion Management Agency ■ Service Authority for Freeway Emergencies

## *Minute Action*

AGENDA ITEM: 11

**Date:** November 13, 2008

**Subject:** Design Cooperative Agreement Amendment No. A04-028-02 and C07-191-01 with Caltrans for the combined Connectors Project on SR-210 Segment 11 and Interstate 215 Segment 5 Project.

- Recommendation:**\*
1. Approve Amendment No. 2 to Contract No. A-04-028 with Caltrans for the combined Connectors Project on SR-210 Segment 11 and I-215 Segment 5 Project in the amount of \$217,000.00
  2. Approve Amendment No. 1 to Contract No. C07-191 with Caltrans for the Connectors Project on SR-210 Segment 11 in the amount of \$291,000.00

**Background:** These are amendments to existing cooperative agreements. Caltrans is now acting as the lead agency for the purposes of advertising, awarding, and administering the construction of Segment 5 of Interstate 215 from north of 16<sup>th</sup> Street to SR-210 through San Bernardino and the new connectors from SR 210 to I-215, the final phase of the SR 210 Segment 11 project, through San Bernardino. These two projects are being administered as one construction project. The construction project is environmentally cleared through both the Federal Highway Administration and Caltrans. The final Plans, Specifications, and Estimates (PS&E) package is nearing 100% completion and is expected to be advertised in mid 2009. Construction of the project is fully funded from State Transportation Improvement Program/Regional Improvement Program (STIP/RIP) funds and State's Corridor Mobility Improvement Account (CMIA) funds.

\*

*Approved*  
*Major Projects Committee*

*Date: November 13, 2008*

*Moved: Second:*

*In Favor: Opposed: Abstained:*

*Witnessed: \_\_\_\_\_*



These two cooperative agreement amendments, which are generally ministerial in nature, slightly modify the roles and responsibilities from the original design cooperative agreements to reflect that Caltrans will now be the lead agency through the duration of the design phase. Since the PS&E package is effectively already complete, Caltrans' primary function will be in reviewing the packages and preparing them as a final bid package. Part of the final review and preparation of the bid package is a review by the Federal Highways Administration (FHWA). For projects administered by Caltrans, this function is completed through Caltrans Office Engineer (OE) group at Caltrans Headquarters. This group will go through the entire package and make sure the bid package complies with State and Federal requirements and is of sufficient quality to minimize potential claims during construction.

- Financial Impact:*** This action is consistent with anticipated expenditures in the Fiscal Year 2008/2009 budget. The funding source is the Measure I Valley Freeway Program.
- Reviewed By:*** This item will be reviewed by the Major Projects Committee on November 13, 2008. SANBAG Counsel has reviewed and approved the agreement as to form.
- Responsible Staff:*** Garry Cohoe, Director of Freeway Construction

by and between

San Bernardino County Transportation Authority

and

California Department of Transportation

for

Design Cooperative Agreement for I-215 Segment 5 and SR 210 Segment 11 Connectors

FOR ACCOUNTING PURPOSES ONLY				
<input checked="" type="checkbox"/> Payable <input type="checkbox"/> Receivable	Vendor Contract # <u>8-1221 A/2</u> Vendor ID _____	Retention: <input type="checkbox"/> Yes _____ % <input checked="" type="checkbox"/> No	<input type="checkbox"/> Original <input checked="" type="checkbox"/> Amendment	
Notes: This is a design cooperative agreement amendment which specifies roles and responsibilities only.				
Original Contract:      \$ <u>0</u>  Contingency Amount:      \$ <u>0</u>	Previous Amendments Total:      \$ <u>0</u> Previous Amendments Contingency Total:      \$ <u>0</u> Current Amendment:      \$ <u>217,000</u> Current Amendment Contingency:      \$ <u>0</u>			
Contingency Amount requires specific authorization by Task Manager prior to release.				
<b>Contract TOTAL →</b>				<b>\$ <u>217,000</u></b>
↓ Please include funding allocation for the original contract or the amendment.				
<b>Task</b>	<b>Cost Code</b>	<b>Funding Sources</b>	<b>Grant ID</b>	<b>Amounts</b>
<u>83809000</u>	<u>5553</u>	<u>Measure I Valley Major Projects</u>	<u>1300</u>	\$ <u>217,000</u>
_____	_____	_____	_____	\$ _____
_____	_____	_____	_____	\$ _____
_____	_____	_____	_____	\$ _____
Original Board Approved Contract Date: <u>1/7/04</u> Contract Start: <u>1/7/04</u> Contract End: <u>6/30/08</u> New Amend. Approval (Board) Date: <u>12/3/08</u> Amend. Start: <u>12/3/08</u> Amend. End: <u>12/31/15</u>				
<b>If this is a multi-year contract/amendment, please allocate budget authority among approved budget authority and future fiscal year(s)-unbudgeted obligations:</b>				
<b>Approved Budget Authority →</b>	Fiscal Year: 08/09 \$ <u>217,000</u>	<b>Future Fiscal Year(s) – Unbudgeted Obligation →</b>		\$ <u>0</u>
Is this consistent with the adopted budget? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If yes, which Task includes budget authority? If no, has the budget amendment been submitted? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No				
CONTRACT MANAGEMENT				
<b>Please mark an "X" next to all that apply:</b>				
<input checked="" type="checkbox"/> Intergovernmental <input type="checkbox"/> Private <input type="checkbox"/> Non-Local <input type="checkbox"/> Local <input type="checkbox"/> Partly Local				
Disadvantaged Business Enterprise: <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes _____ %				
Task Manager: <u>Garry Cohoe</u>			Contract Manager: <u>Stephen Yench</u>	

Task Manager Signature

Date

Contract Manager Signature

Date

Chief Financial Officer Signature

Date

**DRAFT (non executable)**

08-SBd-215-KP 14.2/16.3  
(PM 8.8/10.1)  
HOV and Operational  
Improvements and Modify/Replace  
Interchanges from n/o 16<sup>th</sup> Street to  
SR-210 through San Bernardino in  
San Bernardino County  
EA 007191 and 4440U1  
District Agreement No. 8-1221 A/2

**AMENDMENT NO. 2 TO AGREEMENT NO. 8-1221**

THIS AMENDMENT NO. 2 TO AGREEMENT NO. 8-1221, entered into effective on \_\_\_\_\_, 2008, entered into effective on is between the STATE OF CALIFORNIA, acting by and through its Department of Transportation, referred to herein as "STATE", and the

SAN BERNARDINO COUNTY  
TRANSPORTATION AUTHORITY, a public  
entity, referred to herein as "AUTHORITY."

**RECITALS**

1. STATE and AUTHORITY, pursuant to Streets and Highways Code sections 114 and 130, are authorized to enter into a Cooperative Agreement for improvements to the State Highway System (SHS) within the City of San Bernardino's and the County of San Bernardino's jurisdiction.
2. The STATE and AUTHORITY entered into an Agreement No. 8-1221 on January 7, 2004, said Agreement desired State Highway improvements consisting of widening for High Occupancy Vehicle (HOV) lane and operational improvements and modify/replace interchanges from north of 16<sup>th</sup> Street to State Route 210 on Route 215 at KP 14.2/16.3, referred to herein as "PROJECT", and AUTHORITY was willing to fund one hundred percent (100%) of all capital outlay and staffing costs.
3. The STATE and AUTHORITY also entered into an Amendment to Agreement No. 8-1221 A/1. Said Amendment extended the expiration date of the original Agreement No. 8-1221 from June 30, 2008 to December 30, 2015.

4. STATE and AUTHORITY now intend to replace in its entirety District Agreement NO. 8-1221 with Amendment No. 2 under which PROJECT Plans, Specifications, and Estimates (PS&E) is to be engineered and finance. This Agreement will define herein the revised terms and conditions to complete PS&E activities for PROJECT.
5. The original Agreement is being amended to include work to be done by STATE. Said work includes the tasks to Prepare Contract Documents and Advertise open bids, Award and Approve Contract and the Environmental Certification Process.
6. STATE and AUTHORITY have made the decision to combine the effort for PS&E and Construction of PROJECTS covered by Agreement No. 1221, Expenditure Authorization (EA) 00719, Interstate 215 (I-215) Segment 5 and Agreement No. 1300, EA 44407, State Route 210 (SR-210) Segment 11. Costs incurred will be covered under separate EA 4440U, and the total costs of \$508,000, for STATE's work under the PS&E phase is split between \$217,000, I-215 Segment 5, \$291,000, SR-210 Segment 11 and the total amount will be billed under EA 4440U.
7. STATE funds will not be used to finance any of the PS&E capital and support costs except as set forth in this Agreement.
8. PROJECT (PA&ED) for PROJECT was completed by STATE.
9. The terms of this Agreement shall supersede any inconsistent terms of any prior Memorandum of Understanding (MOU) or agreement relating to PROJECT.
10. PROJECT landscape maintenance, right of way, and construction will be the subject of a separate future agreement or agreements.
11. The parties now define herein below the terms and conditions under which PROJECT is to be developed, designed, and financed.

## SECTION I

### AUTHORITY AGREES:

1. To fund one hundred percent (100%) of all PS&E capital and support costs except for costs of STATE's IQA and STATE's review, comment and approval if appropriate, of the PROJECT documentation for PS&E cost, including, but not limited to, cost incurred for the preparation of contract documents, advertising for bids, all direct and indirect costs and awarding the construction contract for PROJECT.
2. To not use STATE funds for any PROJECT capital and support costs except as set forth in this Agreement.

3. All PROJECT work performed by AUTHORITY, or performed on AUTHORITY's behalf, shall be performed in accordance with all State and Federal laws, regulations, policies, procedures, and standards that STATE would normally follow. All such PROJECT work shall be submitted to STATE for STATE's review, comment, concurrence, and/or approval at appropriate stages of development.
4. All PROJECT work, except as set forth in this Agreement, is to be performed by AUTHORITY. Should AUTHORITY request that STATE perform any portion of PROJECT work, except as otherwise set forth in this Agreement, AUTHORITY shall first agree to reimburse STATE for such work pursuant to an amendment to this Agreement or a separate executed agreement.
5. Personnel who prepare the PS&E shall be made available to STATE, at no cost to STATE, through completion of PROJECT construction to discuss problems which may arise during construction and/or to make design revisions for contract change orders.
6. To have a Supplemental Project Report (SPR) and detailed PS&E prepared, at no cost to STATE, and to submit each to STATE for STATE's review, concurrence, and/or approval at appropriate stages of development. The SPR and the final PS&E for PROJECT shall be signed on behalf of AUTHORITY by a Civil Engineer registered in the State of California. AUTHORITY agrees to provide landscape plans prepared and signed by a licensed California Landscape Architect.
7. To deposit with STATE within twenty five (25) days of receipt of billing therefore, (which billing will be forwarded immediately following execution of this Agreement) the amount of \$200,000, to be paid under EA 44440U, which figure represents a portion of AUTHORITY's share of the cost for STATE's work to Prepare Contract Documents and Advertise, Award and approve Contract. Any cost over and above the estimated cost for PROJECT work under this Agreement will be the responsibility of AUTHORITY.
8. Thereafter, to deposit with STATE within ten (10) days preceding the beginning of each month, the estimated expenditures for that month, and to continue making such advanced deposits on a monthly basis until completion of PROJECT work under this Agreement.
9. To permit STATE to monitor, participate, and oversee selection of personnel who will prepare the SPR and the PS&E services for PROJECT. AUTHORITY agrees to consider any request by STATE to avoid a contract award or to discontinue services of any personnel considered by STATE to be unqualified on the basis of credentials, professional expertise, failure to perform, and/or other pertinent criteria.
10. AUTHORITY shall include a "conflict of interest" requirement in the PROJECT design consultant contract(s) that prohibits the design consultant from being employed or under contract to the future PROJECT construction contractor.
11. To make written application to STATE for necessary encroachment permits authorizing entry of AUTHORITY onto SHS right of way to perform required work for the SPR and PS&E as more specifically defined elsewhere in this Agreement. AUTHORITY shall

also require AUTHORITY's consultants and contractors to make written application to STATE for the same necessary encroachment permits.

12. To identify and locate all utility facilities within the area of PROJECT as part of the design responsibility for PROJECT. All utility facilities not relocated or removed in advance of construction shall be identified on the PS&E for PROJECT.
13. AUTHORITY desires to have STATE advertise, award, and administer the construction contract for PROJECT, AUTHORITY shall provide STATE with plans in a format acceptable to STATE. All aerial photography and photogrammetric mapping shall conform to STATE's current standards.
14. All aerial photography and photogrammetric mapping shall conform to STATE's current standards.
15. A copy of all original survey documents resulting from surveys performed for PROJECT, including original field notes, adjustment calculations, final results, and appropriate intermediate documents, shall be delivered to STATE and shall become property of STATE. For aerial mapping, all information and materials listed in the document "Materials Needed to Review Consultant Photogrammetric Mapping" shall be delivered to STATE and shall become property of STATE.
16. To submit to STATE a list of STATE horizontal and vertical control monuments that will be used to control surveying activities for PROJECT.

## **SECTION II**

### **STATE AGREES:**

1. At no cost to AUTHORITY, to complete STATE's review, comment of all work necessary for completion of the SPR and PS&E for PROJECT undertaken by AUTHORITY or its designee, and provide prompt reviews, comments, concurrence, and/or approvals as appropriate, of submittals by AUTHORITY, while cooperating in timely processing of documents necessary for completion SPR and PS&E for PROJECT.
2. Upon proper application by AUTHORITY and by AUTHORITY's contractor, to issue, at no cost to AUTHORITY and AUTHORITY's contractor, the necessary encroachment permits for required work within the SHS right of way as more specifically defined elsewhere in this Agreement.
3. To provide all available plans (hard copy and electronic), design documentation, studies, and reports to AUTHORITY which have been prepared by the STATE for PROJECT or for applicable portions of other segments which immediately adjoin or impact PROJECT.

STATE shall provide all electronic information in its current software on CDs or DVDs according the total file size.

4. To submit an initial billing to be paid under EA 4440U in the amount of \$200,000, to SANBAG immediately following execution of this Agreement. Said billing represents a portion of AUTHORITY's share of the cost for STATE's work to Prepare Contract Documents and Advertise, Award and Approve Contract for the combined I-215 Segment 5 and SR-210 Segment 11 PROJECT's. The total estimated cost for STATE's work on the combined PROJECT is \$508,000 and will be billed under EA 4440U.
5. Thereafter, to prepare and submit to AUTHORITY monthly billing statements for AUTHORITY's share of estimated expenditures for that month one month in advance as PROJECT work proceeds.
6. To advertise, award and administer the construction contract and Prepare Contract Documents for PROJECT. If AUTHORITY requests STATE to perform any other engineering services for PROJECT, AUTHORITY shall reimburse STATE for such services. An Amendment to this Agreement authorizing STATE's performance of such services will be required prior to performance of any other engineering work by STATE.
7. To submit a monthly progress report to AUTHORITY which describes the work performed and completed during the reporting period with pertinent data such as expenditures and percentage progress achieved to date, all in accordance with STATE's standard accounting practices.

### **SECTION III**

#### **IT IS MUTUALLY AGREED:**

1. All obligations of STATE under the terms of this Agreement are subject to the appropriation of resources by the Legislature, State Budget Act authority and the allocation of funds by the California Transportation Commission (CTC).
2. The parties to this Agreement understand and agree that STATE's IQA is defined as providing STATE policy and procedural guidance through to completion of the PROJECT SPR and PS&E phases administered by AUTHORITY. This guidance includes prompt reviews by STATE to assure that all work and products delivered or incorporated into the PROJECT by AUTHORITY conform with then existing STATE standards. IQA does not include any PROJECT related work deemed necessary to actually develop and deliver the PROJECT, nor does it involve any validation to verify and recheck any work performed by AUTHORITY and/or its consultants or contractors and no liability will be assignable to STATE, its officers and employees by AUTHORITY under the terms of this Agreement or by third parties by reason of STATE's IQA activities. All work performed by STATE that is not direct IQA shall be

chargeable against PROJECT funds as a service for which STATE will invoice its actual costs and AUTHORITY will pay or authorize STATE to reimburse itself from then available PROJECT funds pursuant to an amendment to this Agreement authorizing such services to be performed by STATE.

3. The SPR for PROJECT, approved on ~~XXXXXXXXXX~~, is by this reference, made an express part of this Agreement. If there is a conflict of terms between the SPR and this Agreement, the terms of this Agreement shall prevail.
4. The basic design features shall comply with those addressed in the approved SPR, unless modified as required for completion of the PROJECT's environmental documentation and/or if applicable, requested by the Federal Highway Administration (FHWA).
5. AUTHORITY's share of all changes in development and construction costs associated with modifications to the basic design features as described above shall be in the same proportion as described in this Agreement, unless mutually agreed to the contrary by STATE and AUTHORITY in a subsequent amendment to this Agreement.
6. The design preparation of related technical reports/studies for PROJECT shall be performed in accordance with all applicable Federal and STATE standards and practices current as of the date of performance. Any exceptions to applicable design standards shall first be considered by STATE for approval via the processes outlined in STATE's Highway Design Manual and appropriate memoranda and design bulletins published by STATE. In the event that STATE proposes and/or requires a change in design standards, implementation of new or revised design standards shall be done as part of the work on PROJECT in accordance with STATE's current Highway Design Manual Section 82.5, "Effective Date for Implementing Revisions to Design Standards." STATE shall consult with AUTHORITY in a timely manner regarding the effect of proposed and/or required changes on PROJECT.
7. If, during preparation of the PS&E, performance of right of way activities, or performance of PROJECT construction, new information is obtained which requires the preparation of additional environmental documentation to comply with California Environmental Quality Act (CEQA) and if applicable, National Environmental Policy Act (NEPA), this Agreement will be amended to include completion of those additional tasks by AUTHORITY.
8. AUTHORITY agrees to obtain, as a PROJECT cost, all necessary PROJECT permits, agreements, and/or approvals from appropriate regulatory agencies, unless the parties agree otherwise in writing. If STATE agrees in writing to obtain said PROJECT permits, agreements, and/or approvals, those said costs shall be a PROJECT cost.
9. AUTHORITY shall be fully responsible for complying with and implementing any and all environmental commitments set forth in the environmental documentation, permits, agreements, and/or approvals for PROJECT. The costs of said compliance and implementation shall be a PROJECT cost.



10. If there is a legal challenge to the environmental documentation, including investigative studies and/or technical environmental report(s), permits, agreements, and/or approval(s) for PROJECT, all legal costs associated with those said legal challenges shall be a PROJECT cost.
11. All administrative reports, studies, materials, and documentation, including, but not limited to, all administrative drafts and administrative finals, relied upon, produced, created or utilized for PROJECT will be held in confidence pursuant to Government Code section 6254.5(e). The parties agree that said material will not be distributed, released or shared with any other organization, person or group other than the parties' employees, agents and consultants whose work requires that access without the prior written approval of the party with the authority to authorize said release and except as required or authorized by statute or pursuant to the terms of this Agreement.
12. The party that discovers HM will immediately notify the other party(ies) to this Agreement.

HM-1 is defined as hazardous material (including but not limited to hazardous waste) that requires removal and disposal pursuant to federal or state law, whether it is disturbed by PROJECT or not.

HM-2 is defined as hazardous material (including but not limited to hazardous waste) that may require removal and disposal pursuant to federal or state law, only if disturbed by PROJECT.

13. STATE, independent of PROJECT, is responsible for any HM-1 found within existing SHS right of way. STATE will undertake HM-1 management activities with minimum impact to PROJECT schedule and will pay all costs for HM-1 management activities.  
  
AUTHORITY, independent of PROJECT, is responsible for any HM-1 found outside existing SHS right of way. AUTHORITY will undertake HM-1 management activities with minimum impact to PROJECT schedule and will pay all costs for HM-1 management activities.
14. If HM-2 is found within the limits of PROJECT, the public agency responsible for advertisement, award, and administration (AAA) of the PROJECT construction contract will be responsible for HM-2 management activities. Any management activity cost related to HM-2 is a PROJECT construction cost.
15. Management activities related to either HM-1 or HM-2 include, without limitation, any necessary manifest requirements and designation of disposal facility.
16. STATE's acquisition or acceptance of title to any property on which any hazardous material is found will proceed in accordance with STATE's policy on such acquisition.

17. A separate Cooperative Agreement or agreements will be required to address Landscape Maintenance, right of way and to cover responsibilities and funding for the construction phase of PROJECT.
18. Nothing within the provisions of this Agreement is intended to create duties or obligations to or rights in third parties not parties to this Agreement or to affect the legal liability of either party to the Agreement by imposing any standard of care with respect to the development, design, construction, operation, or maintenance of the SHS and public facilities different from the standard of care imposed by law.
19. Neither STATE nor any officer or employee thereof is responsible for any injury, damage or liability occurring by reason of anything done or omitted to be done by AUTHORITY under or in connection with any work, authority or jurisdiction conferred upon AUTHORITY or arising under this Agreement. It is understood and agreed that, AUTHORITY will fully defend, indemnify and save harmless STATE and all its officers and employees from all claims, suits or actions of every name, kind and description brought forth under, including, but not limited to, tortious, contractual, inverse condemnation or other theories or assertions of liability occurring by reason of anything done or omitted to be done by AUTHORITY under this Agreement.
20. Neither AUTHORITY nor any officer or employee thereof is responsible for any injury, damage or liability occurring by reason of anything done or omitted to be done by STATE, under or in connection with any work, authority or jurisdiction conferred upon STATE or arising under this Agreement. It is understood and agreed that, STATE will fully defend, indemnify and save harmless AUTHORITY and all its officers and employees from all claims, suits or actions of every name, kind and description brought forth under, including, but not limited to, tortious, contractual, inverse condemnation or other theories or assertions of liability occurring by reason of anything done or omitted to be done by STATE under this Agreement.
21. Prior to the commencement of any work pursuant to this Agreement, either STATE or AUTHORITY may terminate this Agreement by written notice to the other party.
22. No alteration or variation of the terms of this Agreement shall be valid unless made by a formal amendment executed by the parties hereto and no oral understanding or agreement not incorporated herein shall be binding on any of the parties hereto.
23. This Agreement shall terminate upon satisfactory completion of all post-PROJECT construction obligations of AUTHORITY and the delivery of required PROJECT construction documents, with concurrence of STATE, or on December 31, 2015, whichever is earlier in time, except that the ownership, operation, maintenance, indemnification, environmental commitments, legal challenges, and claims articles shall remain in effect until terminated or modified, in writing, by mutual agreement. Should any construction related or other claims arising out of PROJECT be asserted against one of the parties, the parties agree to extend the fixed termination date of this Agreement, until such time as the construction related or other claims are settled, dismissed or paid.

**SIGNATURES ON FOLLOWING PAGES:**

STATE OF CALIFORNIA  
DEPARTMENT OF TRANSPORTATION

WILL KEMPTON  
Director

By: \_\_\_\_\_  
RAYMOND W. WOLFE, PhD, ME, CE  
District Director

APPROVED AS TO FORM AND  
PROCEDURE:

By: \_\_\_\_\_  
Attorney,  
Department of Transportation

CERTIFIED AS TO FUNDS:

By: \_\_\_\_\_  
District Budget Manager

CERTIFIED AS TO FINANCIAL  
TERMS AND POLICIES:

By: \_\_\_\_\_  
Accounting Administrator

SAN BERNARDINO COUNTY  
TRANSPORTATION AUTHORITY

By: \_\_\_\_\_  
GARY OVITT  
Board President

Attest: \_\_\_\_\_  
VICKI WATSON  
Board Secretary

APPROVED AS TO FORM AND  
PROCEDURE:

By: \_\_\_\_\_  
JEAN-RENE BASLE  
Counsel

by and between

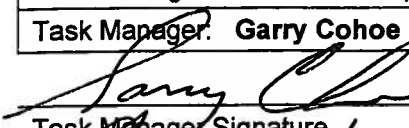
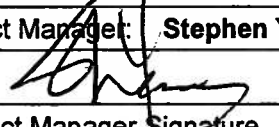


San Bernardino County Transportation Authority

and

California Department of Transportation

for

Design Cooperative Agreement for SR 210 Segment 11 Connectors

FOR ACCOUNTING PURPOSES ONLY				
<input checked="" type="checkbox"/> Payable <input type="checkbox"/> Receivable	Vendor Contract # <u>8-1300 A/1</u> Vendor ID _____	Retention: <input type="checkbox"/> Yes _____ % <input checked="" type="checkbox"/> No	<input type="checkbox"/> Original <input checked="" type="checkbox"/> Amendment	
Notes: This is a design cooperative agreement amendment which specifies roles and responsibilities only.				
Original Contract:      \$ <u>0</u>  Contingency Amount:      \$ <u>0</u>	Previous Amendments Total:      \$ <u>0</u> Previous Amendments Contingency Total:      \$ <u>0</u> Current Amendment:      \$ <u>291,000</u> Current Amendment Contingency:      \$ <u>0</u>			
Contingency Amount requires specific authorization by Task Manager prior to release.				
<b>Contract TOTAL →</b>				<b>\$ <u>291,000</u></b>
↓ Please include funding allocation for the original contract or the amendment.				
<b><u>Task</u></b>	<b><u>Cost Code</u></b>	<b><u>Funding Sources</u></b>	<b><u>Grant ID</u></b>	<b><u>Amounts</u></b>
<u>82409000</u>	<u>5553</u>	<u>Measure I Valley Major Projects</u>	<u>I300</u>	\$ <u>291,000</u>
_____	_____	_____	_____	\$ _____
_____	_____	_____	_____	\$ _____
_____	_____	_____	_____	\$ _____
Original Board Approved Contract Date: <u>3/7/07</u> Contract Start: <u>3/7/07</u> Contract End: <u>12/31/12</u>				
New Amend. Approval (Board) Date: <u>12/3/08</u> Amend. Start: <u>12/3/08</u> Amend. End: <u>12/31/15</u>				
<b>If this is a multi-year contract/amendment, please allocate budget authority among approved budget authority and future fiscal year(s)-unbudgeted obligations:</b>				
<b>Approved Budget Authority →</b>	Fiscal Year: <u>08/09</u> \$ <u>291,000</u>	<b>Future Fiscal Year(s) – Unbudgeted Obligation →</b>	\$ <u>0</u>	
Is this consistent with the adopted budget? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No				
If yes, which Task includes budget authority?				
If no, has the budget amendment been submitted? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No				
CONTRACT MANAGEMENT				
<b>Please mark an "X" next to all that apply:</b>				
<input checked="" type="checkbox"/> Intergovernmental <input type="checkbox"/> Private <input type="checkbox"/> Non-Local <input type="checkbox"/> Local <input type="checkbox"/> Partly Local				
Disadvantaged Business Enterprise: <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes _____%				
Task Manager: <u>Garry Cohoe</u>			Contract Manager: <u>Stephen Yench</u>	
 Task Manager Signature		 Contract Manager Signature		<u>4/6/08</u> Date
 Chief Financial Officer Signature		 Contract Manager Signature		<u>4/14/08</u> Date

**DRAFT (non executable)**

District Agreement No. 8-1300 A/1

08-SBd-215-KP 14.4/18.6 and  
SR-210-KP R34.8/R35.4  
Segment 11  
Construct State Highway Facilities  
EA 444071 and 4440U1  
District Agreement No. 8-1300 A/1

## **AMENDMENT NO. 1 TO AGREEMENT NO. 8-1300**

THIS AMENDMENT NO. 1 TO AGREEMENT NO. 8-1300, entered into effective on \_\_\_\_\_, 2008, entered into effective on is between the STATE OF CALIFORNIA, acting by and through its Department of Transportation, referred to herein as "STATE", and the

SAN BERNARDINO COUNTY  
TRANSPORTATION AUTHORITY, a public  
corporation of the State of California, referred to  
herein as "AUTHORITY."

### **RECITALS**

1. STATE and AUTHORITY, pursuant to Streets and Highways Code sections 114 and 130, are authorized to enter into a Cooperative Agreement for improvements to the State Highway System (SHS) within the County of San Bernardino's jurisdiction.
2. The STATE and AUTHORITY entered into an Agreement No. 8-1300 on April 3, 2007, said Agreement desired State Highway improvements to construct State Route 210 (SR-210)/Interstate 215 (I-215) State Highway facilities, west of Macy Street to "H" Street on SR-210 and south of Muscupiabe Drive to University Parkway on I-215, referred to herein as "PROJECT," and is willing to fund one hundred percent (100%) of all capital outlay and staffing costs, except that the costs of STATE's Independent Quality Assurance (IQA) of Project Approval and Environmental Document (PA&ED) and Plans Specifications and Estimates (PS&E), and STATE's costs incurred as the California Environmental Quality Act (CEQA) Lead Agency and National Environmental Policy Act (NEPA) Lead Agency, if applicable in the review, comment, and approval, if appropriate, of the PROJECT environmental documentation prepared entirely by AUTHORITY will be borne by STATE. .
3. STATE funds will not be used to finance any of the PROJECT capital and support costs except as set forth in Recital 2 above.

4. STATE and AUTHORITY now intend to replace in its entirety District Agreement NO. 8-1300 with Amendment No. 1 under which PA&ED and PS&E is to be engineered and finance for PROJECT. This Agreement will define herein the revised terms and conditions to complete the PA&ED and PS&E activities for PROJECT.
5. The right of way was covered in a prior Cooperative Agreement executed by STATE and AUTHORITY on April 1, 1998, (District Agreement No. 8-1030).
6. The original Agreement is being amended to include work to be done by STATE. Said work includes the tasks to Prepare Contract Documents and Advertise open bids, Award and Approve Contract, and the Environmental Certification Process.
7. STATE and AUTHORITY have made the decision to combine the effort for PS&E and Construction of PROJECTS covered by Agreement No. 1221, Expenditure Authorization (EA) 00719, Interstate 215 (I-215) Segment 5 and Agreement No. 1300, EA 44407, State Route 210 (SR-210) Segment 11. Costs incurred will be covered under separate EA 4440U, and the total costs of \$508,000, for STATE's work under the PS&E phase is split between \$217,000, I-215 Segment 5, \$291,000, SR-210 Segment 11 and the total amount will be billed under EA 4440U.
8. The terms of this Agreement shall supersede any inconsistent terms of any prior Memorandum of Understanding (MOU) or agreement relating to PROJECT
9. PROJECT landscape maintenance and construction will be the subject of a separate future agreement or agreements.
10. This Agreement will define roles and responsibilities of the CEQA Lead Agency and CEQA Responsible Agency regarding environmental documentation, studies, and reports necessary for compliance with CEQA. This Agreement will also define roles and responsibilities for compliance with NEPA, if applicable.
11. The parties now define herein below the terms and conditions under which PROJECT is to be developed, designed, and financed.

## **SECTION I**

### **AUTHORITY AGREES:**

1. To fund one hundred percent (100%) of all work for the PA&ED and PS&E capital and support costs except for costs of STATE's IQA and STATE's review, comment and approval if appropriate, of the PROJECT environmental documentation for CEQA, and NEPA if applicable, including, but not limited to, cost incurred for the preparation of contract documents, advertising for bids, all direct and indirect costs and awarding the



construction contract for PROJECT. If it becomes necessary to obtain additional funds to complete PROJECT these additional funds will be provided by AUTHORITY.

2. To not use STATE funds for any PROJECT capital and support costs except as set forth in this Agreement.
3. All PROJECT work performed by AUTHORITY, or performed on AUTHORITY's behalf, shall be performed in accordance with all State and Federal laws, regulations, policies, procedures, and standards that STATE would normally follow. All such PROJECT work shall be submitted to STATE for STATE's review, comment, concurrence, and/or approval at appropriate stages of development.
4. All PROJECT work, except as set forth in this Agreement, is to be performed by AUTHORITY. Should AUTHORITY request that STATE perform any portion of PROJECT work, except as otherwise set forth in this Agreement, AUTHORITY shall first agree to reimburse STATE for such work pursuant to an amendment to this Agreement or a separate executed agreement.
5. Personnel who prepare the PS&E and environmental documentation, including the environmental studies/reports, shall be made available to STATE, at no cost to STATE, through completion of PROJECT construction to discuss problems which may arise during construction and/or to make design revisions for contract change orders.
6. To have a Supplemental Project Report (SPR) and detailed PS&E prepared, at no cost to STATE, and to submit each to STATE for STATE's review, concurrence, and/or approval at appropriate stages of development. The SPR and the final PS&E for PROJECT shall be signed on behalf of AUTHORITY by a Civil Engineer registered in the State of California. AUTHORITY agrees to provide landscape plans prepared and signed by a licensed California Landscape Architect.
7. To deposit with STATE within twenty five (25) days of receipt of billing therefore, (which billing will be forwarded immediately following execution of this Agreement) the amount of \$200,000, to be paid under EA 4440U, which figure represents a portion of AUTHORITY's share of the cost for STATE's work to Prepare Contract Documents and Advertise, Award and approve Contract. Any cost over and above the estimated cost for PROJECT work under this Agreement will be the responsibility of AUTHORITY.
8. Thereafter, to deposit with STATE within ten (10) days preceding the beginning of each month, the estimated expenditures for that month, and to continue making such advanced deposits on a monthly basis until completion of PROJECT work under this Agreement.
9. To permit STATE to monitor, participate, and oversee selection of personnel who will prepare the SPR, prepare environmental documentation, including the investigative studies and technical environmental reports, prepare the PS&E services for PROJECT. AUTHORITY agrees to consider any request by STATE to avoid a contract award or to discontinue services of any personnel considered by STATE to be unqualified on the

basis of credentials, professional expertise, failure to perform, and/or other pertinent criteria.

10. AUTHORITY shall include a "conflict of interest" requirement in the PROJECT design consultant contract(s) that prohibits the design consultant from being employed or under contract to the future PROJECT construction contractor.
11. Personnel who prepare the preliminary engineering and environmental documentation, including investigative studies and technical environmental reports, shall be made available to STATE, at no cost to STATE, through completion of PROJECT construction to discuss problems which may arise during PS&E, Right of Way, and Construction phases of the PROJECT, and/or to make design revisions for contract change orders.
12. To make written application to STATE for necessary encroachment permits authorizing entry of AUTHORITY onto SHS right of way to perform required work for the SPR, PA&ED and PS&E as more specifically defined elsewhere in this Agreement. AUTHORITY shall also require AUTHORITY's consultants and contractors to make written application to STATE for the same necessary encroachment permits
13. To identify and locate all utility facilities within the area of PROJECT as part of the design responsibility for PROJECT. All utility facilities not relocated or removed in advance of construction shall be identified on the PS&E for PROJECT.
14. To be responsible, at AUTHORITY's expense, for the investigation of potential hazardous material sites within and outside of the existing State Highway right of way that could impact PROJECT as part of performing any preliminary engineering work. If AUTHORITY discovers hazardous material or contamination within the PROJECT study area during said investigation, AUTHORITY shall immediately notify STATE.
15. AUTHORITY desires to have STATE advertise, award, and administer the construction contract for PROJECT, AUTHORITY shall provide STATE with plans in a format acceptable to STATE. All aerial photography and photogrammetric mapping shall conform to STATE's current standards.
16. A copy of all original survey documents resulting from surveys performed for PROJECT, including original field notes, adjustment calculations, final results, and appropriate intermediate documents, shall be delivered to STATE and shall become property of STATE. For aerial mapping, all information and materials listed in the document "Materials Needed to Review Consultant Photogrammetric Mapping" shall be delivered to STATE and shall become property of STATE.
17. To submit to STATE a list of STATE horizontal and vertical control monuments that will be used to control surveying activities for PROJECT..

**SECTION II**

**STATE AGREES:**

1. At no cost to AUTHORITY, to complete STATE's review, comment of all work necessary for completion of the SPR, PA&ED and PS&E for PROJECT undertaken by AUTHORITY or its designee, and provide prompt reviews, comments, concurrence, and/or approvals as appropriate, of submittals by AUTHORITY, while cooperating in timely processing of documents necessary for completion SPR and PS&E for PROJECT.
2. Upon proper application by AUTHORITY and by AUTHORITY's contractor, to issue, at no cost to AUTHORITY and AUTHORITY's contractor, the necessary encroachment permits for required work within the SHS right of way as more specifically defined elsewhere in this Agreement.
3. To provide all available plans (hard copy and electronic), design documentation, studies, and reports to AUTHORITY which have been prepared by the STATE for PROJECT or for applicable portions of other segments which immediately adjoin or impact PROJECT. STATE shall provide all electronic information in its current software on CDs or DVDs according to the total file size.
4. To submit an initial billing to be paid under EA 4440U in the amount of \$200,000, to SANBAG immediately following execution of this Agreement. Said billing represents a portion of AUTHORITY's share of the cost for STATE's work to Prepare Contract Documents and Advertise, Award and Approve Contract for the combined I-215 Segment 5 and SR-210 Segment 11 PROJECT's. The total estimated cost for STATE's work on the combined PROJECT is \$508,000 and will be billed under EA 4440U.
5. Thereafter, to prepare and submit to AUTHORITY monthly billing statements for AUTHORITY's share of estimated expenditures for that month one month in advance as PROJECT work proceeds.
6. To advertise, award and administer the construction contract and Prepare Contract Documents for PROJECT. If AUTHORITY requests STATE to perform any other engineering services for PROJECT, AUTHORITY shall reimburse STATE for such services. An Amendment to this Agreement authorizing STATE's performance of such services will be required prior to performance of any other engineering work by STATE.
7. To submit a monthly progress report to AUTHORITY which describes the work performed and completed during the reporting period with pertinent data such as expenditures and percentage progress achieved to date, all in accordance with STATE's standard accounting practices.

**SECTION III**

**IT IS MUTUALLY AGREED:**

1. All obligations of STATE under the terms of this Agreement are subject to the appropriation of resources by the Legislature, State Budget Act authority and the allocation of funds by the California Transportation Commission (CTC).
2. The parties to this Agreement understand and agree that STATE's IQA is defined as providing STATE policy and procedural guidance through to completion of the PROJECT SPR, PA&ED and PS&E phases administered by AUTHORITY. This guidance includes prompt reviews by STATE to assure that all work and products delivered or incorporated into the PROJECT by AUTHORITY conform with then existing STATE standards. IQA does not include any PROJECT related work deemed necessary to actually develop and deliver the PROJECT, nor does it involve any validation to verify and recheck any work performed by AUTHORITY and/or its consultants or contractors and no liability will be assignable to STATE, its officers and employees by AUTHORITY under the terms of this Agreement or by third parties by reason of STATE's IQA activities. All work performed by STATE that is not direct IQA shall be chargeable against PROJECT funds as a service for which STATE will invoice its actual costs and AUTHORITY will pay or authorize STATE to reimburse itself from then available PROJECT funds pursuant to an amendment to this Agreement authorizing such services to be performed by STATE.
3. The SPR for PROJECT, approved on ~~XXXXXX~~, is by this reference, made an express part of this Agreement. If there is a conflict of terms between the SPR and this Agreement, the terms of this Agreement shall prevail.
4. The basic design features shall comply with those addressed in the approved SPR, unless modified as required for completion of the PROJECT's environmental documentation and/or if applicable, requested by the Federal Highway Administration (FHWA).
5. The design and preparation of environmental documentation, including investigative studies and technical environmental reports, for PROJECT shall be performed in accordance with all applicable Federal and STATE standards and practices current as of the date of performance. Any exceptions to applicable design standards shall first be considered by STATE for approval via the processes outlined in STATE's Highway Design Manual and appropriate memoranda and design bulletins published by STATE. In the event that STATE proposes and/or requires a change in design standards, implementation of new or revised design standards shall be done as part of the work on PROJECT in accordance with STATE's current Highway Design Manual Section 82.5, "Effective Date for Implementing Revisions to Design Standards." STATE shall consult with AUTHORITY in a timely manner regarding the effect of proposed and/or required changes on PROJECT.

6. STATE will be the CEQA Lead Agency and AUTHORITY will be a CEQA Responsible Agency. STATE will be the NEPA Lead Agency, if applicable. AUTHORITY will assess PROJECT impacts on the environment and AUTHORITY will prepare the appropriate level of environmental documentation and necessary associated supporting investigative studies and technical environmental reports in order to meet the requirements of CEQA and if applicable, NEPA. AUTHORITY will submit to STATE all investigative studies and technical environmental reports for STATE's review, comment, and approval. The environmental document and/or categorical exemption/exclusion determination, including the administrative draft, draft, administrative final, and final environmental documentation, as applicable, will require STATE's review, comment, and approval prior to public availability.

If, during preparation of preliminary engineering, preparation of the PS&E, performance of right of way activities, or performance of PROJECT construction, new information is obtained which requires the preparation of additional environmental documentation to comply with CEQA and if applicable, NEPA, this Agreement will be amended to include completion of those additional tasks by AUTHORITY.

7. AUTHORITY agrees to obtain, as a PROJECT cost, all necessary PROJECT permits, agreements, and/or approvals from appropriate regulatory agencies, unless the parties agree otherwise in writing. If STATE agrees in writing to obtain said PROJECT permits, agreements, and/or approvals, those said costs shall be a PROJECT cost.
8. AUTHORITY shall be fully responsible for complying with and implementing any and all environmental commitments set forth in the environmental documentation, permits, agreements, and/or approvals for PROJECT. The costs of said compliance and implementation shall be a PROJECT cost.
9. If there is a legal challenge to the environmental documentation, including investigative studies and/or technical environmental report(s), permits, agreements, and/or approval(s) for PROJECT, all legal costs associated with those said legal challenges shall be a PROJECT cost.
10. AUTHORITY, subject to STATE's prior review and approval, as a PROJECT cost, shall be responsible for preparing, submitting, publicizing and circulating all public notices related to the CEQA environmental process and if applicable, the NEPA environmental process, including, but not limited to, notice(s) of availability of the environmental document and/or determinations and notices of public hearings. Public notices shall comply with all State and Federal laws, regulations, policies and procedures. STATE will work with the appropriate Federal agency to publish notices in the Federal Register, if applicable.

STATE, as a PROJECT cost, shall be responsible for overseeing the planning, scheduling and holding of all public meetings/hearings related to the CEQA environmental process and if applicable, the NEPA environmental process AUTHORITY, to the satisfaction of STATE and subject to all of STATE's and FHWA's policies and procedures, shall be

responsible for performing the planning, scheduling and details of holding all public meetings/hearings related to the CEQA environmental process and if applicable, the NEPA environmental process. STATE will participate as CEQA Lead Agency and if applicable, the NEPA Lead Agency, in all public meetings/hearings related to the CEQA environmental process and if applicable, the NEPA environmental process, for PROJECT. AUTHORITY shall provide STATE the opportunity to provide comments on any public meeting/hearing exhibits, handouts or other materials at least ten (10) days prior to any such public meetings/hearings. STATE maintains final editorial control of exhibits, handouts or other materials to be used at public meetings/hearings..

11. In the event AUTHORITY would like to hold separate and/or additional public meetings/hearings regarding the PROJECT, AUTHORITY must clarify in any meeting/hearing notices, exhibits, handouts or other materials that STATE is the CEQA Lead Agency and if applicable, the NEPA Lead Agency, and AUTHORITY is the CEQA Responsible Agency. Such notices, handouts and other materials shall also specify that public comments gathered at such meetings/hearings are not part of the CEQA and if applicable, NEPA, public review process. AUTHORITY shall provide STATE the opportunity to provide comments on any meeting/hearing exhibits, handouts or other materials at least ten (10) days prior to any such meetings/hearings. STATE maintains final editorial control of exhibits, handouts or other materials to be used at public meetings/hearings solely with respect to text or graphics that could lead to public confusion over CEQA and if applicable, NEPA, related roles and responsibilities.
12. All administrative reports, studies, materials, and documentation, including, but not limited to, all administrative drafts and administrative finals, relied upon, produced, created or utilized for PROJECT will be held in confidence pursuant to Government Code section 6254.5(e). The parties agree that said material will not be distributed, released or shared with any other organization, person or group other than the parties' employees, agents and consultants whose work requires that access without the prior written approval of the party with the authority to authorize said release and except as required or authorized by statute or pursuant to the terms of this Agreement.
13. AUTHORITY's share of all changes in development and construction costs associated with modifications to the basic design features as described above shall be in the same proportion as described in this Agreement, unless mutually agreed to the contrary by STATE and AUTHORITY in a subsequent amendment to this Agreement.
14. The party that discovers hazardous material (HM) will immediately notify the other party(ies) to this Agreement.

HM-1 is defined as hazardous material (including but not limited to hazardous waste) that requires removal and disposal pursuant to federal or state law, whether it is disturbed by PROJECT or not.

HM-2 is defined as hazardous material (including but not limited to hazardous waste) that may require removal and disposal pursuant to federal or state law, only if disturbed by PROJECT.

15. STATE, independent of PROJECT, is responsible for any HM-1 found within existing SHS right of way. STATE will undertake HM-1 management activities with minimum impact to PROJECT schedule and will pay all costs for HM-1 management activities.

AUTHORITY, independent of PROJECT, is responsible for any HM-1 found outside existing SHS right of way. AUTHORITY will undertake HM-1 management activities with minimum impact to PROJECT schedule and will pay all costs for HM-1 management activities.

16. If HM-2 is found within the limits of PROJECT, the public agency responsible for advertisement, award, and administration (AAA) of the PROJECT construction contract will be responsible for HM-2 management activities.

Any management activity cost related to HM-2 is a PROJECT construction cost.

17. Management activities related to either HM-1 or HM-2 include, without limitation, any necessary manifest requirements and designation of disposal facility.
18. STATE's acquisition or acceptance of title to any property on which any hazardous material is found will proceed in accordance with STATE's policy on such acquisition.
19. A separate Cooperative Agreement or agreements will be required to address Landscape Maintenance, and cover responsibilities and funding for the construction phase of PROJECT
20. Nothing within the provisions of this Agreement is intended to create duties or obligations to or rights in third parties not parties to this Agreement or to affect the legal liability of either party to the Agreement by imposing any standard of care with respect to the development, design, construction, operation, or maintenance of the SHS and public facilities different from the standard of care imposed by law.
21. Neither STATE nor any officer or employee thereof is responsible for any injury, damage or liability occurring by reason of anything done or omitted to be done by AUTHORITY under or in connection with any work, authority or jurisdiction conferred upon AUTHORITY or arising under this Agreement. It is understood and agreed that, AUTHORITY will fully defend, indemnify and save harmless STATE and all its officers and employees from all claims, suits or actions of every name, kind and description brought forth under, including, but not limited to, tortious, contractual, inverse condemnation or other theories or assertions of liability occurring by reason of anything done or omitted to be done by AUTHORITY under this Agreement.

22. Neither AUTHORITY nor any officer or employee thereof is responsible for any injury, damage or liability occurring by reason of anything done or omitted to be done by STATE, under or in connection with any work, authority or jurisdiction conferred upon STATE or arising under this Agreement. It is understood and agreed that, STATE will fully defend, indemnify and save harmless AUTHORITY and all its officers and employees from all claims, suits or actions of every name, kind and description brought forth under, including, but not limited to, tortious, contractual, inverse condemnation or other theories or assertions of liability occurring by reason of anything done or omitted to be done by STATE under this Agreement.
23. Prior to the commencement of any work pursuant to this Agreement, either STATE or AUTHORITY may terminate this Agreement by written notice to the other party.
24. No alteration or variation of the terms of this Agreement shall be valid unless made by a formal amendment executed by the parties hereto and no oral understanding or agreement not incorporated herein shall be binding on any of the parties hereto.
25. This Agreement shall terminate upon satisfactory completion of all post-PROJECT construction obligations of AUTHORITY and the delivery of required PROJECT construction documents, with concurrence of STATE, or on December 31, 2015, whichever is earlier in time, except that the ownership, operation, maintenance, indemnification, environmental commitments, legal challenges, and claims articles shall remain in effect until terminated or modified, in writing, by mutual agreement. Should any construction related or other claims arising out of PROJECT be asserted against one of the parties, the parties agree to extend the fixed termination date of this Agreement, until such time as the construction related or other claims are settled, dismissed or paid.

SIGNATURES ON FOLLOWING PAGES:



STATE OF CALIFORNIA  
DEPARTMENT OF TRANSPORTATION

WILL KEMPTON  
Director

By: \_\_\_\_\_  
RAYMOND W. WOLFE, PhD, ME, CE  
District Director

APPROVED AS TO FORM AND  
PROCEDURE:

By: \_\_\_\_\_  
Attorney,  
Department of Transportation

CERTIFIED AS TO FUNDS:

By: \_\_\_\_\_  
District Budget Manager

CERTIFIED AS TO FINANCIAL  
TERMS AND POLICIES:

By: \_\_\_\_\_  
Accounting Administrator

**SAN BERNARDINO COUNTY  
TRANSPORTATION AUTHORITY**

By: \_\_\_\_\_  
**GARY OVITT**  
Board President

Attest: \_\_\_\_\_  
**VICKI WATSON**  
Board Secretary

**APPROVED AS TO FORM AND  
PROCEDURE:**

By: \_\_\_\_\_  
**JEAN-RENE BASLE**  
Counsel

- San Bernardino County Transportation Commission ■ San Bernardino County Transportation Authority  
■ San Bernardino County Congestion Management Agency ■ Service Authority for Freeway Emergencies

## *Minute Action*

AGENDA ITEM: 12

**Date:** November 13, 2008

**Subject:** SR-210 Landscape Maintenance

**Recommendation:\*** Receive report on SR-210 landscape maintenance.

**Background:** SANBAG is responsible for landscaping the SR-210 as part of constructing this project. The landscape construction includes one year of plant establishment and two years of maintenance. After the maintenance period has been completed the landscaping is turned over to Caltrans.

The issue is that Caltrans does not have the resources to maintain the landscaping in a condition that is acceptable to the public. Caltrans District 8 has not received additional maintenance resources for the additional miles of freeway that have been added over the last decade, including segments of the SR-210. In addition, their efficiency has been decreased by a mandate that they significantly reduce the amount of chemicals used in maintaining the landscaping. This results in the major investment that SANBAG has made in landscaping is not being protected and is not providing the benefits envisioned.

To address this issue on the segments of SR-210 already turned over to Caltrans and the segments that will be turned over in the next few years, SANBAG has been meeting with Caltrans and some of the local agencies that abut the freeway. The other issue that is being discussed, in preparing the design for the segments still to be landscaped, if there is a different design that will be more maintenance and water friendly.

\*

*Approved*  
*Major Projects Committee*

*Date:* November 13, 2008

*Moved:* *Second:*

*In Favor:* *Opposed:* *Abstained:*

*Witnessed:* \_\_\_\_\_

At the last meeting a concept was proposed for the segment of freeway from Milliken Avenue in Rancho Cucamonga to Sierra Avenue in Fontana that would have the Cities maintain the landscaping and weed control of the ramps; the County investigate if they could assist in an effort to provide additional crews from the Special Workers Probationary Program; SANBAG would investigate different ways to reduce the maintenance of the I-15/SR-210 Interchange area including additional mulch and weed pre-emergence; Caltrans would be responsible for the remaining maintenance along the corridor, including the irrigation system along the ramps. It is anticipated that this coordinated effort would need to be in effect for three years at which time the landscaping would be mature and the maintenance effort reduced. Parallel with this effort, Caltrans District 8 is going to submit a Budget Change Request in an attempt to gain additional resources to adequately maintain the freeways within their District, a process that takes two to three years. The results of the agency's investigation will be discussed at a meeting in the near future. With this coordinated effort, the landscape should be maintained at a level that is acceptable to the public.

In regards to the design of the remaining segments, landscaping native plant specialists gave a presentation on the benefits of using native plants. Their recommendations are being considered by Caltrans landscape architects and will be discussed further at a future meeting. Any major changes to the landscape pallet would need to be discussed with the SR-210 Joint Powers Authority, as they gave approval to the existing Landscape Mater Plan.

***Financial Impact:*** This item has no financial impact.

***Reviewed By:*** This item will be reviewed by the Major Project Committee on November 13, 2008.

***Responsible Staff:*** Garry Cohoe, Director of Freeway Construction

- San Bernardino County Transportation Commission ■ San Bernardino County Transportation Authority  
■ San Bernardino County Congestion Management Agency ■ Service Authority for Freeway Emergencies

## *Minute Action*

AGENDA ITEM: 13

**Date:** November 13, 2008

**Subject:** Final Accounting for SR-210 Right-of-Way Costs

- Recommendation:\***
- 1) Receive report on SR-210 final right-of-way capital expenditures totaling \$122,806,500
  - 2) Acknowledge \$26,679,500 in expenditures over the programmed State Transportation Improvement Program (STIP) amount which will count against San Bernardino County's (STIP) share.
  - 3) Direct staff to program the \$26,679,500 for repayment of expenditures over the next three STIP cycles, as authorized by the California Transportation Commission.

**Background:** The right-of-way for the SR-210 Freeway was funded by State Transportation Improvement Program (STIP) funds, as recommended by the SANBAG Board of Directors. The SR-210 was designated as a corridor project. A corridor project allows flexibility in utilizing the funds on all the segments on the corridor. The right-of-way funds for the SR-210/I-10 Direct Connector project were segregated from the corridor to be in compliance with the Corridor Mobility Improvement Account guidelines.

The STIP Guidelines require that for corridor projects, the final project expenditures, actual plus estimated, are deferred until the time the California Transportation Commission (CTC) makes an allocation for the last construction

\*

*Approved*  
*Major Projects Committee*

*Date:* November 13, 2008

*Moved:* *Second:*

*In Favor:* *Opposed:* *Abstained:*

*Witnessed:* \_\_\_\_\_

segment. With the completion of the last segment of SR-210, the final project expenditures have been finalized.

The actual final right-of-way capital expenditures are \$211,742,262, totaling \$115,615,262 above the \$96,127,000 programmed by SANBAG. Per the STIP Guidelines, the project is responsible for all costs; costs over the programmed amount are to be counted against the county's future share of STIP funding. CTC and Caltrans staff, understanding what an impact this late development would have on SANBAG's program, have worked with SANBAG to develop a plan that will reduce the impacts.

Normally, the excess land sales are credited to the statewide STIP fund. However, CTC and Caltrans staff have agreed to credit the excess land sales to reduce the deficit. The SR-210 excess land credit is \$58,993,155, reducing the deficit to \$56,622,107.

The final right-of-way capital expenditures include both actual and estimated expenditures. The items that are estimated in the expenditures are condemnation cases and inverse condemnations. The SR-210 has three outstanding inverse condemnation cases which consist of the Colonies, Cactus Basin, and Williamson claims against Caltrans and SANBAG. It has been agreed that the final accounting will not include any funds for these inverse condemnation cases. In other words, any settlement against Caltrans will not count against SANBAG's STIP share. Crediting the total condemnation and inverse condemnation expenditures of \$29,942,607, leaves an outstanding deficit of \$26,679,500.

Finally, it has been agreed at the staff level that the deficit will be spread over three STIP cycles. This arrangement is subject to California Transportation Commission approval. This will help to minimize the impact to our upcoming program.

SANBAG and Caltrans staffs have been working on final accounting for SR-210 right-of-way since December 2007. The numerous project phases which have been split and combined over the development of this corridor lead to accounting issues and a changing right-of-way capital balance until the final expenditures were tabulated. If there had been an on-going, clear understanding of the balance, SANBAG would have been responsible to fund the total shortfall in prior STIPs. The actions recommended in this item, with concurrence of Caltrans and the CTC, will represent a final accounting for close-out of SR-210 right-of-way costs,

leaving SANBAG with a final responsibility for \$26,679,500 and the ability to account for the amounts owed over the next three STIP cycles

***Financial Impact:*** This action will reduce the future STIP allocations to San Bernardino County by \$26,679,500.

***Reviewed By:*** This item will be reviewed by the Major Projects Committee on November 13, 2008.

***Responsible Staff:*** Garry Cohoe, Director of Freeway Construction

## *Minute Action*

AGENDA ITEM: 14

**Date:** November 13, 2008

**Subject:** Prioritization of Interchanges for the Measure I 2010-2040 Valley Freeway Interchange Program

- Recommendation:**\*
1. Approve the recommended methodology for prioritizing interchanges for the Measure I 2010-2040 Valley Freeway Interchange Program, including the use of vehicle-hours of delay saved per million dollars in total interchange cost as the basis for setting priorities.
  2. Approve the interchange priority list in Table 1 as the basis for implementation of Measure I 2010-2040 funding allocation policies for the Valley Freeway Interchange Program.

**Background:** This agenda item was first presented at the Major Projects Committee on October 9, 2008. The committee requested that staff conduct several follow-up activities prior to further consideration of priorities for the Measure I 2010-2040 Valley Interchange Program. This included: 1) an alternate calculation of benefit/cost using only the public share of the interchange cost; 2) consideration of the AM peak period traffic delays for those interchanges where the AM congestion could be greater than the PM congestion; and 3) further evaluation of the delays at the I-10/Pepper interchange. Some of the background behind the Interchange Program is included below to provide context for the discussion of interchange priorities.

The policy framework for the Measure I 2010-2040 Valley Interchange Program was conceptually approved by the SANBAG Board on August 6, 2008. The

\*

*Approved*  
*Major Projects Committee*

*Date:* \_\_\_\_\_

*Moved:*

*Second:*

*In Favor:*

*Opposed:*

*Abstained:*

*Witnessed:* \_\_\_\_\_



policy framework is provided as Attachment 1. One of the key components of the framework is the first policy in Attachment 1:

*In the event of a greater call on financial resources than available, fund interchanges included in the Valley Freeway Interchange Program according to a prioritization list based on a benefit/cost methodology and subject to revision every five years.*

When an excess call on financial resources occurs, staff envisions that a prioritization list similar to that of the Public Utilities Commission (PUC) railroad grade separation list be the arbiter of which interchange receives the available funding. The PUC approach allocates funds to the highest priority projects for which project sponsors are ready to move forward to construction. The higher priority project that is not ready will be passed over in favor of the next highest priority project that is prepared to move to construction.

A draft freeway interchange prioritization list has been developed, per direction from the SANBAG Board, based on a benefit-cost methodology. The list was initially presented on October 9.

### **Prioritization Methodology**

Given the above as background, staff recommends the following methodology for implementing the interchange prioritization process. The methodology is consistent with the one used by SANBAG in 2001 when a prioritization list was developed for a combination of railroad grade separation and interchange projects.

#### **Data Collection and Analysis:**

1. Conduct queue delay studies for the PM peak period at each interchange – the direct measurement of delay is the best and fairest way to quantify the level of congestion at each interchange. The PM peak period was used as the basis because the PM typically has more severe congestion than the AM peak period. However, use of the AM peak period is allowed where a local jurisdiction indicates that AM congestion is more severe than PM congestion. The goal is to use the “worst case” peak period for each interchange.
2. Calculate existing vehicle hours of delay (VHD) for the peak hour (total interchange delay)
3. Estimate existing delay that could be saved with an interchange improvement = (total interchange delay per vehicle minus a baseline delay per vehicle) times interchange peak hour volume, and factor to a daily basis

4. Estimate future delay saved = existing delay times a growth factor (same basis for growth as used for derivation of interchange fair share percentages)
5. For new interchanges – estimate delay that could be saved through congestion relief at adjacent interchanges using a similar methodology
6. Those interchanges with Trade Corridors Improvement Fund (TCIF) funding and other major funding commitments (Cherry/I-10, Citrus/I-10, Riverside/I-10, Tippecanoe/I-10) have been viewed as fully funded and exempt from prioritization.

Alternative prioritization criteria (six different criteria were considered as options for establishing interchange priorities):

1. Existing vehicle hours of delay (VHD) saved
2. Estimated future VHD saved (would increase priority for projects that have higher traffic growth rates)
3. Existing VHD saved per million dollars in interchange costs (would increase priority for projects with lower costs)
4. Future VHD saved per million dollars in interchange costs (would increase priority for projects that have higher growth rates and lower costs)
5. Existing VHD saved per million dollars in public share of interchange costs (would increase priority for projects with lower public share costs)
6. Future VHD saved per million dollars in public share of interchange costs (would increase priority for projects that have higher growth rates and lower public share costs)

Of these, existing VHD saved per million dollars in interchange costs (Criterion No. 3) is recommended as most suitable. The reason for this recommendation is that:

1. It focuses on documented congestion problems, as the public would currently perceive congestion, rather than on more speculative forecasts of congestion.
2. It combines the consideration of both benefit and cost, which will help target public share dollars on the most cost-effective projects first.
3. It is most consistent with Board direction to employ a benefit-cost methodology.

Criterion No. 5 was further considered per the request of the Major Projects Committee. The public share of the cost was calculated as the total interchange cost minus the development share of the cost. The development share of the cost is the total cost times the fair share percentage, as listed in Table 1. The use of Criterion No. 5 would give additional preference to interchanges that have higher fair share percentages. An outcome of this approach is that it would favor interchanges that require a lower percentage of Measure I dollars. This would

also mean that areas serving new development would receive additional preference over interchanges addressing existing congestion problems. This would typically result in new interchanges increasing in priority, since new interchanges tend to be serving areas of higher growth potential.

Staff believes that Criterion No. 3 provides the fairest comparison of interchange benefit/cost. New interchanges or interchanges in high growth areas should not be given additional advantage over interchanges with more serious existing congestion problems. In addition, it should be noted that competitive funding programs in the State of California generally use the total cost in calculating benefit/cost ratios, not the state funding amount. Thus, the recommended approach is consistent with the approach typically taken by the State.

Additional queue delay studies were conducted in the AM peak period at three interchanges: I-10/Euclid eastbound ramps and SR-60/Grove ramps in Ontario, and I-15/Baseline ramps in Rancho Cucamonga/Fontana. The selection of these interchanges was in response to requests by local jurisdictions. These analysis results are being awaited from the consultant and will be used to revise the delay estimates in Table 1 prior to the November 13 meeting.

In addition, SANBAG staff has consulted with County of San Bernardino staff concerning the I-10/Pepper interchange. Although discussions are continuing, SANBAG staff's review of information available from the County to date appears to confirm SANBAG's own studies that the ranking of the I-10/Pepper interchange is appropriate. A policy decision would be necessary for the interchange to be elevated in priority on grounds other than the benefit/cost analysis.

### **Interchange Priority List**

Table 1 shows the results of the application of the above methodology to the 33 interchanges being evaluated. The table shows the most current estimates of interchange cost, the daily VHD, the ratio of daily VHD to interchange project cost, and the ratio of VHD to the public share of the project cost. The interchange development fair share percentage is also shown. The interchange ranks are sorted based on the recommendation of Criterion No. 3. Alternate ranks based on the use of Criterion No. 5 are also shown.

**Table 1. Valley Freeway Interchange Prioritization List  
(VHD = Vehicle Hours of Delay)**

	Cost (\$Mill, from Nexus Study)	Fair Share Percent	VHD Saved Existing	Existing VHD Saved Per \$Mill	Existing VHD Saved Per \$Mill Meas. I	Rank Based on Exist VHD Saved Per \$Mill	Rank Based on Exist VHD Saved Per \$Mill Meas. I
I-10/Cedar	\$ 34.35	30.0%	556	16.19	23.13	1	5
SR-210/Baseline	\$ 17.83	41.9%	257	14.39	24.77	2	2
SR-60/Central	\$ 26.72	58.8%	350	13.09	31.78	3	1
I-10/University	\$ 5.51	17.9%	68	12.33	15.02	4	9
I-215/University	\$ 29.27	44.1%	292	9.99	17.87	5	7
I-10/Alabama	\$ 26.70	50.5%	239	8.96	18.10	6	6
I-15/Baseline	\$ 31.80	50.0%	261	8.20	16.40	7	8
I-10/Mt. Vernon	\$ 31.81	5.1%	250	7.87	8.30	8	14
SR-60/Archibald	\$ 6.36	66.1%	50	7.86	23.19	9	4
I-10/Monte Vista	\$ 25.45	24.1%	189	7.41	9.77	10	12
SR-60/Grove	\$ 45.00	48.3%	324	7.20	13.93	11	10
SR-60/Euclid	\$ 7.00	44.5%	50	7.14	12.87	12	11
I-10/Euclid	\$ 8.00	17.4%	50	6.25	7.57	13	15
SR-60/Mountain	\$ 34.45	46.2%	167	4.84	9.00	14	13
SR-60/Ramona	\$ 26.72	31.3%	124	4.62	6.73	15	17
I-15/Sierra	\$ 12.70	80.3%	58	4.57	23.21	16	3
SR-210/Waterman	\$ 50.90	18.2%	229	4.50	5.51	17	19
I-10/Mountain View	\$ 50.90	37.8%	222	4.37	7.02	18	16
I-10/Pepper	\$ 33.85	34.0%	108	3.20	4.85	19	20
SR-210/Del Rosa	\$ 35.62	32.8%	101	2.84	4.22	20	23
SR-210/5 <sup>th</sup>	\$ 17.83	41.9%	49	2.74	4.71	21	21
I-10/Vineyard	\$ 74.00	60.0%	170	2.30	5.75	22	18
I-15/6th-Arrow	\$ 70.00	50.0%	132	1.89	3.78	23	24
SR-60/Vineyard	\$ 45.00	60.3%	81	1.80	4.53	24	22
I-10/4th/Grove	\$ 70.00	17.1%	125	1.78	2.15	25	25
I-215/Palm	\$ 10.92	15.8%	15	1.35	1.60	26	29
I-10/California	\$ 45.00	47.8%	45	1.01	1.94	27	27
I-10/Alder	\$ 99.45	50.0%	100	1.01	2.01	28	26
I-10/Wildwood	\$ 34.19	50.0%	31	0.92	1.83	29	28
I-215/Pepper-Linden	\$ 50.90	50.0%	32	0.63	1.26	30	30
I-15/Duncan Cyn.	\$ 62.90	77.3%	15	0.24	1.07	32	31
I-10/Beech	\$ 112.89	50.0%	30	0.27	0.54	31	32
I-10/Wabash	\$ 26.72	35.8%	6	0.22	0.34	33	33

Only two of the interchange rankings changed by more than five places between the two methods. The I-10/Mt. Vernon interchange dropped by six places, by

virtue of its low fair share percentage, and the I-15/Sierra interchange increased by 13 places by virtue of its high fair share percentage.

Table 1, as modified to accommodate the AM peak period analysis referenced earlier, is recommended as the basis for implementation of Measure I 2010-2040 funding allocation policies for the Valley Freeway Interchange Program. It should be noted that delay studies and costs would be updated approximately every 5 years, or more frequently if requested by the Board, allowing for adaptation of the priority list to changing conditions. For example, existing interchanges in higher growth areas could gradually rise in priority over time.

***Financial Impact:*** This item is consistent with the approved Fiscal Year 2008-2009 SANBAG Budget. TN60909000

***Reviewed By:*** This item will be reviewed by the Major Projects Committee on November 13, 2008.

***Responsible Staff:*** Steve Smith, Chief of Planning  
Ryan Graham, Transportation Planning Analyst  
Ty Schuiling, Director of Planning and Programming

**Attachment 1**  
**Valley Freeway Interchange Program Policies Conceptually Approved by the SANBAG Board on**  
**August 6, 2008**

- A. In the event of a greater call on financial resources than available, fund interchanges included in the Valley Freeway Interchange Program according to a prioritization list based on a benefit/cost methodology and subject to revision every five years.
- B. Allow for advance reimbursement of large right-of-way expenditures for freeway interchange projects on an exception basis, subject to approval by the SANBAG Board.
- C. Although the possibility of loans for Valley Freeway Interchange Program projects was conceptually approved by the Major Projects Committee in February 2008, neither SANBAG nor local jurisdictions are obligated to enter into loan agreements for these projects. SANBAG may participate in loans of Measure I 2010-2040 funds on an exception basis. For projects granted a loan of Measure I funds by SANBAG, establish the following repayment terms:
  - a. Repayment of fair share loans shall include interest based on the Consumer Price Index (CPI) or another like inflation index approved by the SANBAG Board. Local jurisdictions anticipating the need for loans on specific interchange projects will provide estimates of those loan needs, including estimates of interest payments, through the annual Capital Projects Needs Analysis (CPNA). Local jurisdictions may include these financing costs in their development impact fee programs.
  - b. The repayment terms shall be 100% of development mitigation dollars received by the jurisdiction (or for the County sphere of influence) for the interchange portion of the jurisdiction/sphere fee program, payable quarterly, until the loan is retired. Deviations from the 100% commitment of collected funds will be considered on an exception basis. Additional terms and conditions for repayment will be made on a case-by-case basis, by mutual agreement between both parties and with approval of the SANBAG Board. The maximum timeframe for repayment of the loan shall be 10 years, which may be extended if projected or collected development fees are insufficient for repayment during this timeframe, subject to approval by the SANBAG Board.
  - c. Failure to make payments consistent with the terms of the loan agreement will result in the jurisdiction's loss of access to new allocations of MI 2010-2040 Valley Major Streets and Valley Freeway Interchange Program funds until payments are brought back to a level consistent with terms of the loan agreement.
  - d. If annexation of unincorporated area occurs within the Nexus Study "traffic shed" for an interchange, it is the expectation that any loan commitments related to that interchange will be reapportioned to the annexing city based on the adjusted fair share for the interchange project and will be included in any considerations by the Local Agency Formation Commission.
- D. Allow for SANBAG management of local jurisdiction interchange projects subject to the following conditions:
  - a. Local jurisdiction requests SANBAG management of interchange project

- b. SANBAG staff and/or SANBAG consultant has available resources for project management
- c. Local jurisdiction is willing to pay SANBAG project management fees based on estimate prepared by SANBAG or consultant
- E. SANBAG will reimburse jurisdiction for eligible expenditures within 30 days of receiving a complete and satisfactory invoice package from a jurisdiction, which shall include all backup and support materials required to substantiate invoice.
- F. Exclude the following as eligible expenditures from the Valley Freeway Interchange program:
  - a. Additional environmental or architectural enhancement not required as part of the mitigation established in the environmental document(s) prepared for a project.
  - b. Project management costs, with the exception of construction support costs
  - c. Property acquired through the right-of-way acquisition process that is not required for the actual construction of the project.
- G. Jurisdictions shall bear full responsibility for construction cost overruns, which will be established as any amount in excess of the total cost of the accepted bid and reasonable contingency amount included in the contract.

## *Minute Action*

AGENDA ITEM: 15

**Date:** November 13, 2008

**Subject:** Draft the Measure I 2010-2040 Strategic Plan

**Recommendation:\*** 1) Receive information on the status of the Draft Measure I 2010-2040 Strategic Plan Report.

2) Direct staff to schedule a workshop with staff from Valley jurisdictions for purposes of discussing selected issues in the Strategic Plan draft prior to release of the full draft in early December 2008.

**Background:** Development of the Measure I 2010-2040 Strategic Plan was initiated in 2005 to define the policy framework for delivery of the projects and programs referenced in the new Measure. The Strategic Plan will be the policy manual for delivery of the Measure I programs by SANBAG and its member agencies.

SANBAG staff is beginning limited distribution of draft sections of the Strategic Plan in November. An outline of the full draft Strategic Plan Report is included as Attachment 1. Drafts of Sections 1 and 2, which represent introductory chapters of the Strategic Plan, are included as Attachment 2.

A complete draft of the Strategic Plan is planned for release with SANBAG committee agendas in early December. This will initiate a formal review and comment period that extends through late January 2009. SANBAG will then prepare a response to comments for February committee meetings and/or a Board

\*

---

*Approved.*  
*Major Projects Committee*

*Date: November 13, 2008*

*Moved: Second:*

*In Favor: Opposed: Abstained:*

*Witnessed: \_\_\_\_\_*



workshop in mid-February. A final draft will be prepared for March committee approval, with SANBAG Board approval scheduled for April 1, 2009.

SANBAG staff is requesting a workshop with local jurisdiction staff so that several procedural issues related to Valley programs can be discussed, to ensure that the SANBAG staff proposals are workable. The focus would be the Valley Freeway Interchange and Valley Major Street Programs, but may include issues related to the Local Streets Program and other Valley programs as well. The Valley Interchange and Major Street Programs have received conceptual approval from the Major Projects Committee, but additional details need to be discussed. It is believed that additional work on these issues prior to publication of the full draft Strategic Plan in December will help to streamline and simplify the formal review of the draft. Examples of issues to be discussed include: eligible expenditures, loan repayment process, Capital Project Needs Analysis requirements, the advance expenditure process, and processes governing SANBAG management of interchange and rail/highway grade separation projects. A meeting is scheduled with the Comprehensive Transportation Plan Technical Advisory Committee on November 10<sup>th</sup>, but the discussion of issues cannot take place at the necessary depth within this meeting alone. Separate workshops are anticipated to be scheduled for Valley jurisdictions and Mountain/Desert jurisdictions.

The following points summarize the primary policy directions for the Valley programs as presented in the attached materials:

- The Strategic Plan recognizes that the SANBAG Board of Directors has full discretion over the apportionment of Measure I 2010-2040 revenue between Valley Programs on an annual basis, while maintaining the distribution of Measure I funds over the life of the Measure according to the percentages stated in the Expenditure Plan.
- The proposed policies governing the current Valley Local Street Program are continued in the new Measure, with minimal modifications. The Local Street program is the formula-based program in which sales tax dollars are passed directly through SANBAG to local jurisdictions and expended in accordance with a five-year plan.
- An annual apportionment of funds to Valley programs will be approved by the Board based on an annual needs assessment, revenue forecast, and cash-flow analysis.
- A financially feasible strategy has been developed for the Valley Freeway Program, including consideration of reduced project scopes, estimated allocation levels for state/federal funds, and bonding to accelerate project

delivery. The strategy will be updated on a regular basis as circumstances change.

- The policy framework for the Valley Freeway Interchange Program is based on benefit/cost prioritization of interchanges for Measure I funding allocations. Measure I dollars are provided to local jurisdictions through a reimbursement process.
- The policy framework for the Valley Major Street Program has two sub-programs, one for rail/highway grade separation projects and one for arterial streets. The grade separation sub-program is based on a project prioritization process similar to the Freeway Interchange program. The arterial street program is based on each jurisdiction having access to an equitable share of funds as documented by arterial project needs in the Development Mitigation Nexus Study. Measure I dollars are provided to local jurisdictions through a reimbursement process.
- The Express Bus/Bus Rapid Transit program is established as a pay-as-you-go program.
- A financially feasible cash-flow scenario has been developed for the Metrolink/Rail program, including proposed bonding to accelerate delivery of the Redlands Rail and Gold Line Extension projects.
- The policy framework for the Project Advancement program allows jurisdictions in the Valley to execute additional Project Advancement Agreements through January 31, 2009. An Advance Expenditure program allows for jurisdictions to continue to deliver projects in advance of the availability of Measure I funds, with a commitment by SANBAG to reimburse jurisdictions for eligible expenditures, subject to the prioritization and equity processes in each of the programs.
- Bond financing is anticipated to be necessary for the Valley Freeway Program, Freeway Interchange Program, Grade Separation Sub-program, and Metrolink/Rail Program. Policies governing bond financing will be provided in the December distribution of the draft Strategic Plan.

Approval of the Strategic Plan is needed one year in advance of the initiation of the new Measure I in April 2010 so that the resources and systems can be put in place to manage the new Measure. A Board workshop is tentatively planned for February 2009, in the event one is needed to discuss responses to comments received in the formal review period and resolve remaining issues.

**Financial Impact:** This item has no financial impact. The item is consistent with the approved Fiscal Year 2008-2009 SANBAG budget, Task 60909000.

Major Projects Agenda Item  
November 13, 2008  
Page 4 of 7

**Reviewed By:** This item will be reviewed by the Major Projects Committee on November 13, 2008.

**Responsible Staff:** Steve Smith, Chief of Planning  
Ryan Graham, Transportation Planning Analyst  
Ty Schuiling, Director of Planning and Programming

## **DRAFT MEASURE I 2010-2040 STRATEGIC PLAN OUTLINE**

1. Introduction
  - 1.1. Measure I Half-Cent Sales Tax – History and Background
  - 1.2. Purpose of the Strategic Plan
  - 1.3. Approach to the Strategic Plan
  - 1.4. Strategic Plan Organization
2. Measure I 2010-2040 Expenditure Plan
  - 2.1. Subarea and Program Overview
  - 2.2. Measure I Revenue Estimates
  - 2.3. Development Mitigation Program
  - 2.4. Other Sources of Revenue
    - 2.4.1. State
    - 2.4.2. Federal
    - 2.4.3. Additional revenue sources
  - 2.5. Strategic Plan Updates and Amendments
3. Measure I Strategic Plan Framework
  - 3.1. Overarching Principles
  - 3.2. Overview of the Implementation Strategy
    - 3.2.1. Maximize Revenue
    - 3.2.2. Manage Project and Program Costs
    - 3.2.3. Accelerate Project Delivery through Borrowing, where Appropriate
    - 3.2.4. Increase the Efficiency and Effectiveness of Project Development
  - 3.3. Implementation Frameworks by Subarea and Program
    - 3.3.1. Cajon Pass Program
      - 3.3.1.1. Scope of the program
      - 3.3.1.2. Financial analysis of program
      - 3.3.1.3. Policy framework
      - 3.3.1.4. Implementation actions
    - 3.3.2. Valley Programs
      - 3.3.2.1. Process overview
      - 3.3.2.2. Project Advancement Agreements/Advance Expenditure
      - 3.3.2.3. Local Streets
        - 3.3.2.3.1. Scope of the program
        - 3.3.2.3.2. Financial analysis of program
        - 3.3.2.3.3. Policy framework
        - 3.3.2.3.4. Implementation actions
      - 3.3.2.4. Freeway
        - 3.3.2.4.1. Scope of the program
        - 3.3.2.4.2. Financial analysis of program
        - 3.3.2.4.3. Policy framework
        - 3.3.2.4.4. Implementation actions
      - 3.3.2.5. Interchange
        - 3.3.2.5.1. Scope of the program
        - 3.3.2.5.2. Financial analysis of program

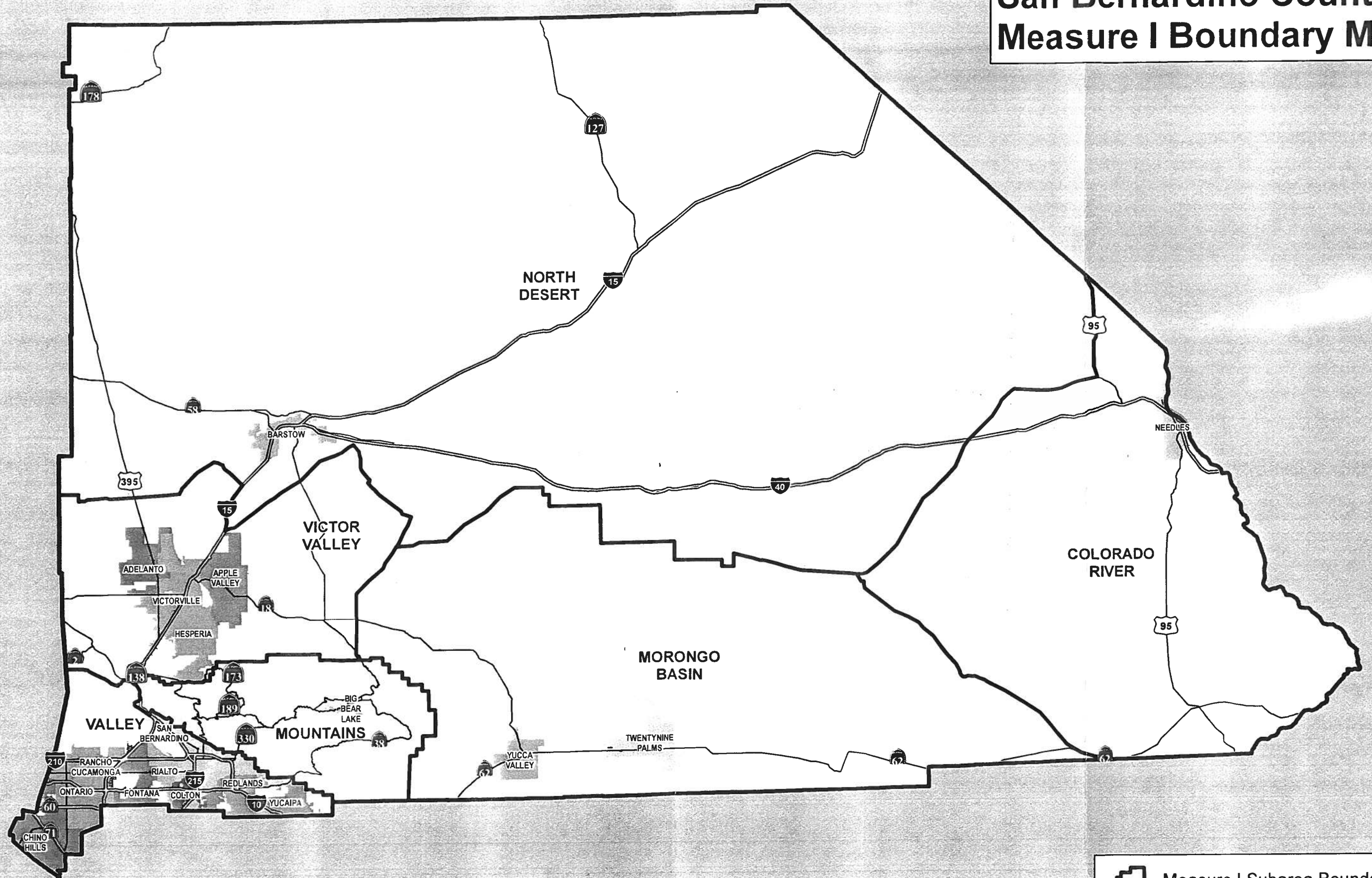
## Major Projects Agenda Item


November 13, 2008

Page 6 of 7

- 3.3.2.5.3. Policy framework
- 3.3.2.5.4. Implementation actions
- 3.3.2.6. Major Street
  - 3.3.2.6.1. Scope of the program
  - 3.3.2.6.2. Financial analysis of program
  - 3.3.2.6.3. Policy framework
  - 3.3.2.6.4. Implementation actions
- 3.3.2.7. Metrolink/Rail
  - 3.3.2.7.1. Scope of the program
  - 3.3.2.7.2. Financial analysis of program
  - 3.3.2.7.3. Policy framework
  - 3.3.2.7.4. Implementation actions
- 3.3.2.8. Express Bus/BRT
  - 3.3.2.8.1. Scope of the program
  - 3.3.2.8.2. Financial analysis of program
  - 3.3.2.8.3. Policy framework
  - 3.3.2.8.4. Implementation actions
- 3.3.2.9. Senior and Disabled Transit
  - 3.3.2.9.1. Scope of the program
  - 3.3.2.9.2. Financial analysis of program
  - 3.3.2.9.3. Policy framework
  - 3.3.2.9.4. Implementation actions
- 3.3.2.10. Traffic Management
  - 3.3.2.10.1. Scope of the program
  - 3.3.2.10.2. Financial analysis of program
  - 3.3.2.10.3. Policy framework
  - 3.3.2.10.4. Implementation actions
- 3.3.3. Victor Valley
  - 3.3.3.1. Local Streets
    - 3.3.3.1.1. Scope of the program
    - 3.3.3.1.2. Financial analysis of program
    - 3.3.3.1.3. Policy framework
    - 3.3.3.1.4. Implementation actions
  - 3.3.3.2. Major/Local Highways
    - 3.3.3.2.1. Scope of the program
    - 3.3.3.2.2. Financial analysis of program
    - 3.3.3.2.3. Policy framework
    - 3.3.3.2.4. Implementation actions
  - 3.3.3.3. Senior and Disabled Transit
    - 3.3.3.3.1. Scope of the program
    - 3.3.3.3.2. Financial analysis of program
    - 3.3.3.3.3. Policy framework
    - 3.3.3.3.4. Implementation actions
  - 3.3.3.4. Project Development and Traffic Management Systems
- 3.3.4. Other Mountain/Desert Subareas
  - 3.3.4.1. Local Streets

# San Bernardino County Measure I Boundary Map



 Measure I Subarea Boundaries

Major Projects Agenda Item

November 13, 2008

Page 7 of 7

- 3.3.4.1.1. Scope of the program
    - 3.3.4.1.2. Financial analysis of program
    - 3.3.4.1.3. Policy framework
    - 3.3.4.1.4. Implementation actions
  - 3.3.4.2. Major/Local Highways
    - 3.3.4.2.1. Scope of the program
    - 3.3.4.2.2. Financial analysis of program
    - 3.3.4.2.3. Policy framework
    - 3.3.4.2.4. Implementation actions
  - 3.3.4.3. Senior and Disabled Transit
    - 3.3.4.3.1. Scope of the program
    - 3.3.4.3.2. Financial analysis of program
    - 3.3.4.3.3. Policy framework
    - 3.3.4.3.4. Implementation actions
  - 3.3.4.4. Project Development and Traffic Management Systems
- 4. Measure I 2010-2040 Resource Requirements
  - 4.1. Human resources
    - 4.1.1. SANBAG staff requirements
    - 4.1.2. Project management and consulting assistance
    - 4.1.3. Implementation of Independent Taxpayer Oversight Committee
  - 4.2. Management Systems
    - 4.2.1. Financial System Enhancements
    - 4.2.2. Apportionment and Allocation Tracking Systems
  - 4.3. Agency coordination and facilitation of project delivery
    - 4.3.1. With local jurisdictions
    - 4.3.2. With Caltrans
    - 4.3.3. With Federal agencies

## **Attachment 2**

### **Draft Sections of the Measure I 2010-2040 Strategic Plan Report**

#### **1. Introduction**

##### 1.1. Measure I Half-Cent Sales Tax – History and Background

The California State Legislature authorized county transportation authorities to enact local option sales tax measures for transportation in the late 1980s, under provisions of Division 19 (commencing with Section 180000) of the Public Utilities Code. In November 1989, San Bernardino County voters approved passage of Measure I, authorizing the San Bernardino County Transportation Authority to impose a half cent retail transactions and use tax applicable in the incorporated and unincorporated areas of the County of San Bernardino for the 20-year period between April 1, 1990 and March 31, 2010. San Bernardino Associated Governments (SANBAG), acting as the Authority, was authorized to administer the programs described in the Measure. Revenue from the tax can only be used for transportation improvement and traffic management programs authorized in the Expenditure Plan set forth in Ordinance No. 89-1.

By March 2010, Measure I will have generated approximately \$1.8 billion (nominal dollars) in revenue for transportation projects throughout San Bernardino County. The list of accomplishments is extensive and includes initiation of Metrolink commuter rail service, construction of the SR-71 and SR-210 freeways; widening of I-10, SR-60, and I-215, the widening and maintenance of many arterial highways throughout San Bernardino County, and support for several transit systems operated around the County. For a complete listing of accomplishments of Measure I see SANBAG's web site at [www.sanbag.ca.gov](http://www.sanbag.ca.gov).

Early in the second decade of the Measure, it became apparent that continuation of the half-cent sales tax would be critical to maintaining funding for transportation in San Bernardino County. Information was solicited from local jurisdictions regarding ongoing transportation needs, and a draft expenditure plan was developed that could serve as a basis for renewal of Measure I. Ordinance No. 04-01 was placed before voters in November 2004, and Measure I was renewed resoundingly, with just over 80% of the vote. The new Measure I extends the half-cent sales tax for 30 years, from April 1, 2010 through March 31, 2040. It is now referred to as Measure I 2010-2040 to distinguish it from the first Measure I.

##### 1.2. Purpose of the Strategic Plan

In August 2005, the SANBAG Board of Directors approved a Strategic Plan Scope of Work to address significant policy, fiscal, and institutional issues associated with Measure I 2010-2040. It was noted in the approved Scope that the magnitude of Measure I 2010-2040 rivals the transportation budgets of some states. It was also noted that the policy, fiscal, and institutional issues associated with administration of Measure I 2010-2040 are complex and interrelated, and that they differ among the Valley, Mountain, and



Desert areas of the County. By approving preparation of this Strategic Plan, SANBAG signaled its intent to consider and ultimately resolve these issues through a measured, comprehensive, strategic planning process.

Consistent with the approved Scope of Work, the Strategic Plan is the official guide and reference for the allocation and administration of the combination of local transportation sales tax, state and federal transportation revenues, and private fair-share contributions to regional transportation facilities from new development needed to fund delivery of the Measure I 2010-2040 transportation program. It is also the comprehensive repository for the policies and institutional provisions needed to manage implementation of the Measure.

The administrative policy framework, policies, and procedures described herein are products of more than three years of analysis of fiscal and procedural alternatives, discussion and direction provided through technical and policy committees, and approval by the SANBAG Board of Directors. They include direction on a host of policy and procedural, fiscal, and institutional issues, including specific actions and policies to be implemented in the near-term, and broader, more conceptual guidance for the out-years of the program. As noted in Section 2.5, the Strategic Plan will be updated periodically to reflect the changes in costs, revenues, conditions, and priorities that will undoubtedly occur over the life of Measure I 2010-2040.

### 1.3. Approach to the Strategic Plan

The Strategic Plan is intended to structure Measure I 2010-2040 programs so that they:

- Fulfill commitments made to the voters
- Are financially feasible and scaled to the revenue projected to be available
- Are implemented with policies and procedures that provide financial accountability, treat each of SANBAG's member jurisdictions equitably, and provide predictable access to Measure I revenues
- Can be managed with the resources available to SANBAG

The Strategic Plan has been developed based on the best available information of projected Measure I 2010-2040 revenues and program costs. History has shown that projections of up to 30 years into the future are extremely uncertain. For example, the predictions by regional demographers in 1978 of the San Bernardino County population in year 2000 were 50% low over just that 20-year span. Projections of funding, which depend on forecasts of population growth and other variables, should be viewed as order-of-magnitude. Funding availability can vary significantly, even dramatically, from one year to the next. Forecasts of federal and state revenues must be made over 30 years of congressional and legislative cycles with highly unpredictable outcomes. The federal and state revenues are dependent not only on the willingness of these bodies to renew and fund programs, but on their willingness to modify revenue sources to keep pace with needs.

In summary, although SANBAG intends to be realistic in terms of revenue and cost projections, reality could vary significantly from these assumptions. The Strategic Plan policies and procedures have been prepared so that project delivery can adapt to these uncertainties. Scope adjustments have already been made to some of the programs in light of information generated in the Strategic Plan process. Several programs have been structured based on the prioritization of projects, thereby controlling commitments made to Measure I dollars. Updates to the Strategic Plan to better reflect future conditions will occur as indicated in Section 2.5.

#### 1.4 Strategic Plan Organization

The remainder of the Strategic Plan is organized into the following Sections:

- Section 2. Measure I 2010-2040 Expenditure Plan – Provides a description of how the Measure is organized into geographic subareas and programs, defines eligible projects, and specifies funding percentages for programs within each subarea.
- Section 3. Measure I Strategic Plan Framework - States the Board-adopted Strategic Plan principles, provides an overview of the implementation strategy, and presents the policy framework for each subarea and program
- Section 4. Measure I 2010-2040 Resource Requirements – Delineates the human and management resources needed to implement Measure I 2010-2040.

Section 3 is the centerpiece of the plan. Each program within each subarea is discussed in the following order:

- Scope of the program
- Financial analysis of the program
- Implementation actions
- Policies

The policies are stated at the end of each program section and comprise the rules by which each program will function. The policies are also made available as a separately bound document and on the SANBAG web site so that interested parties may directly access those policies for guidance. Revision of policies will require SANBAG Board action, and may occur at any time. A notification process will be provided on changes to the Measure I 2010-2040 policies.

## **2. Overview of the Measure I 2010-2040 Expenditure Plan**

### **2.1. Measure I 2010-2040 Subarea and Program Overview**

#### **2.1.1. Background**

San Bernardino County Transportation Authority Ordinance 04-01 was approved by the voters of San Bernardino County on November 4, 2004. The Ordinance, referred to in the Strategic Plan as Measure I 2010-2040 to distinguish it from the 20-year half-cent sales tax measure that took effect in April 1990. A complete copy of the Ordinance, including the Expenditure Plan, is provided in Appendix A. All the financial data in the Expenditure Plan have been updated in this Strategic Plan.

The Measure I retail transactions and use tax is statutorily dedicated for transportation planning, design, construction, operation and maintenance only in San Bernardino County and cannot be used for other governmental purposes or programs. There are specific safeguards in the Ordinance to ensure that funding is used in accordance with the specified voter-approved transportation project improvements and programs (see Appendix A).

The Measure I Ordinance contains maintenance-of-effort provisions that state that funds provided to government agencies by Measure I are to supplement, and not replace, existing local revenues being used for transportation purposes. replace requirements for new development to provide for its own road needs. In addition, Measure I 2010-2040 revenues are not to replace requirements for new development to provide for its own road needs. The Ordinance further states that Measure I funding priorities should be given to addressing current road needs, easing congestion, and improving roadway safety.

Eligible expenditures include those for planning, environmental reviews, engineering and design costs, and related right-of-way acquisition. Eligible expenditures also include, but are not limited to, debt service on bonds and expenses in connection with issuance of bonds.

#### **2.1.2. Subarea and Program Structure**

Measure I 2010-2040 is organized into subareas as shown in Figure 2-1:

- San Bernardino Valley
- Victor Valley
- North Desert
- Mountains
- Morongo Basin
- Colorado River

The Cajon Pass is located in both the Valley and Victor Valley subareas and has its own expenditure plan.

Measure I 2010-2040 has a return-to-source provision that states that funds shall be allocated to subareas in accordance with the actual revenue collected in each subarea. After deduction of required Board of Equalization fees and authorized administrative costs, revenues generated in each subarea are to be expended on projects of direct benefit to that subarea. Revenues are accounted for separately for each subarea and then allocated to specified project categories in each subarea. These project categories are termed “programs” in this Strategic Plan.

Decisions on how revenues are expended within the subareas are made by the SANBAG Board of Directors, based upon recommendations of local representatives. Other than the projects identified in the Cajon Pass Expenditure Plan, revenues generated within a subarea are to be expended outside of that subarea only upon approval of two-thirds (2/3) of the jurisdictions within the affected subarea. A proportional share of projected state and federal transportation funds is to be reserved for use solely within the Valley subarea and individual Mountain/Desert subareas.

In the San Bernardino Valley subarea, the Measure I 2010-2040 programs are as follows:

- Freeway Program
- Freeway Interchange Program
- Major Street Program
- Local Street Program
- Metrolink/Rail Program
- Express Bus/Bus Rapid Transit Program
- Senior and Disabled Transit Program
- Traffic Management Systems Program

In each of the Mountain/Desert subareas, the programs are as follows:

- Local Street Program
- Major Local Highway Program
- Senior and Disabled Transit Program

Project eligibility and Measure I funding distribution for each of the programs are delineated in Section 2.1.4.

### 2.1.3. Contributions from New Development

Section VIII of the Measure I ordinance states specific development mitigation requirements:

*“SECTION VIII. CONTRIBUTIONS FROM NEW DEVELOPMENT. No revenue generated from the tax shall be used to replace the fair share contributions required from new development. Each local jurisdiction identified in the Development Mitigation Program must adopt a development financing mechanism within 24 months of voter approval of the Measure ‘I’ that would:*

*"1) Require all future development to pay its fair share for needed transportation facilities as a result of the development, pursuant to California Government Code 66000 et seq. and as determined by the Congestion Management Agency.*

*"2) Comply with the Land Use/Transportation Analysis and Deficiency Plan provisions of the Congestion Management Program pursuant to California Government Code Section 65089.*

*"The Congestion Management Agency shall require fair share mitigation for regional transportation facilities through a Congestion Management Program update to be approved within 12 months of voter approval of Measure 'I'."*

SANBAG serves as the Congestion Management Agency for San Bernardino County. The SANBAG Board approved modifications to the Congestion Management Program (CMP) to incorporate these provisions for the urbanized areas of the County (Valley and Victor Valley) in November, 2005. This included preparation of the Development Mitigation Nexus Study (now Appendix K of the CMP) and the development mitigation implementation language in Appendix J of the CMP. Local jurisdictions in the Valley and Victor Valley responded by the end of 2006 to these requirements with the creation or update of development impact fee (DIF) programs that include mitigation for improvements to freeway interchanges, rail/highway grade separations, and arterial streets on a regional network.

#### 2.1.4. Revenue Distribution and Eligible Projects by Subarea and Program

As indicated above, Measure I funds shall be allocated to subareas by percentage of the actual revenue received. The Cajon Pass expenditure plan will receive three percent of the revenue generated in the San Bernardino Valley Subarea and the Victor Valley Subarea. This revenue will be reserved in an account for funding of the I-15/I-215 Interchange in Devore, I-15 widening through Cajon Pass, and truck lane development. The subarea programs for the San Bernardino Valley and Mountain/Desert Subareas are explained below:

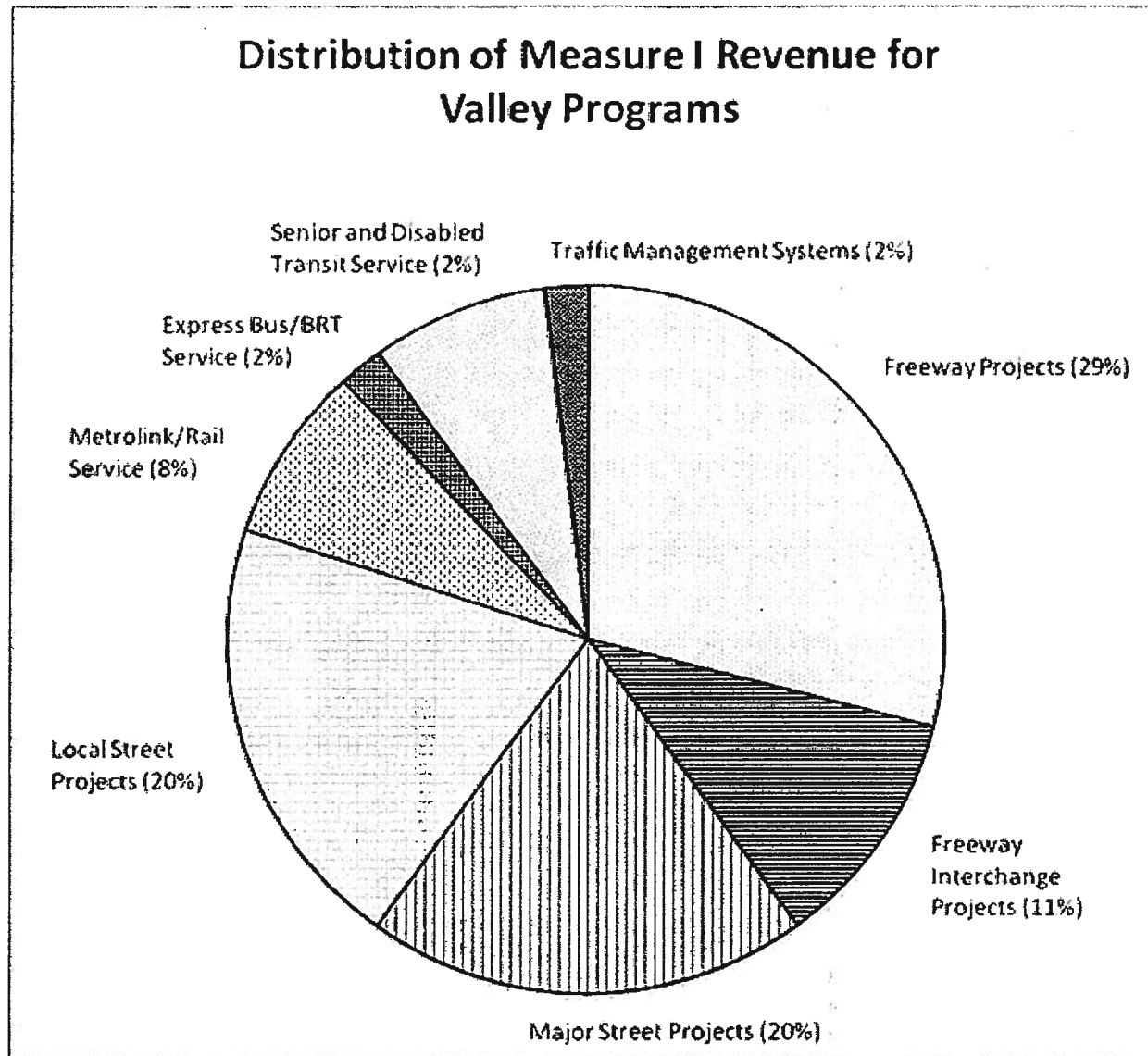
##### San Bernardino Valley Subarea

- Freeway Program –
  - Receives 29% of Valley subarea revenues
  - Eligible projects include: I-10 widening from I-15 to Riverside County Line, I-15 widening from Riverside County Line to I-215, I-215 widening from Riverside County Line to I-10, I-215 widening from SR-210 to I-15, SR-210 widening from I-215 to I-10, and carpool lane connectors
- Freeway Interchange Program
  - Receives 11% of Valley subarea revenues
  - Eligible projects include various interchanges on I-10, I-15, SR-60, I-215, and SR-210. The SANBAG Nexus Study contains a listing of 38 interchanges in the Valley that could be eligible for these funds
- Major Street Program

- Upon initial collection of revenue, the Major Street Program will receive 20% of revenue collected in the Valley. Effective ten years following initial collection of revenue, the Major Street Program allocation shall be reduced to no more 17% but to not less than 12% upon approval by the Authority Board of Directors and the Express Bus/Bus Rapid Transit Service allocation shall be increased by a like amount. Equitable geographic distribution of projects shall be taken into account over the life of the program.
- The SANBAG Nexus Study and CMP requirements have established projects that are eligible for funding under this program. Both rail/highway grade separations and arterial highway improvements on the regional network are eligible. The regional network is identified in the Nexus Study.
- Local Street Program
  - Receives 20% of revenue collected in the Valley subarea. This revenue is distributed to local jurisdictions for local street projects. Allocations to jurisdictions shall be on a per capita basis using the most recent State Department of Finance population estimates for January 1.
  - Local street projects are defined as local street and road construction, repair, maintenance and other eligible local transportation priorities. Expenditure of funds shall be based on a Five Year Plan adopted annually by the governing body of each jurisdiction. Funds are passed by SANBAG directly through to the local jurisdictions.
- Metrolink/Rail Program
  - Receives 8% of Valley subarea revenues
  - Eligible expenditures include, in part, purchase of additional Metrolink commuter rail passenger cars and locomotives, construction of additional track capacity, construction of additional parking spaces at Metrolink stations, new passenger rail service between San Bernardino and Redlands, and extension of the Gold Line light rail to Montclair.
- Senior and Disabled Transit Service
  - Receives 8% of Valley subarea revenues
  - This is a continuation of the senior and disabled transit program in Measure I 1990-2010.
- Express Bus/Bus Rapid Transit Service
  - Upon initial collection of revenue, the Express Bus/Bus Rapid Transit Service category will receive 2% of revenue collected in the Valley. Effective ten years following initial collection of revenue, the Express Bus/Bus Rapid Transit Service category shall be increased to at least 5%, but no more than 10% upon approval by the Authority Board of Directors. The Major Street Projects category shall be reduced by a like amount.
  - Funds in this category shall be expended for the development, implementation, and operation of express bus and bus rapid transit service, to be jointly developed by SANBAG and transit service agencies serving the Valley subarea.
- Traffic Management Systems
  - Receives 2% of Valley subarea revenue

- Eligible projects include signal synchronization, systems to improve traffic flow, commuter assistance programs, freeway service patrol, and projects which contribute to environmental enhancement associated with transportation facilities.

The pie chart below summarizes the percentage distribution for Valley programs.

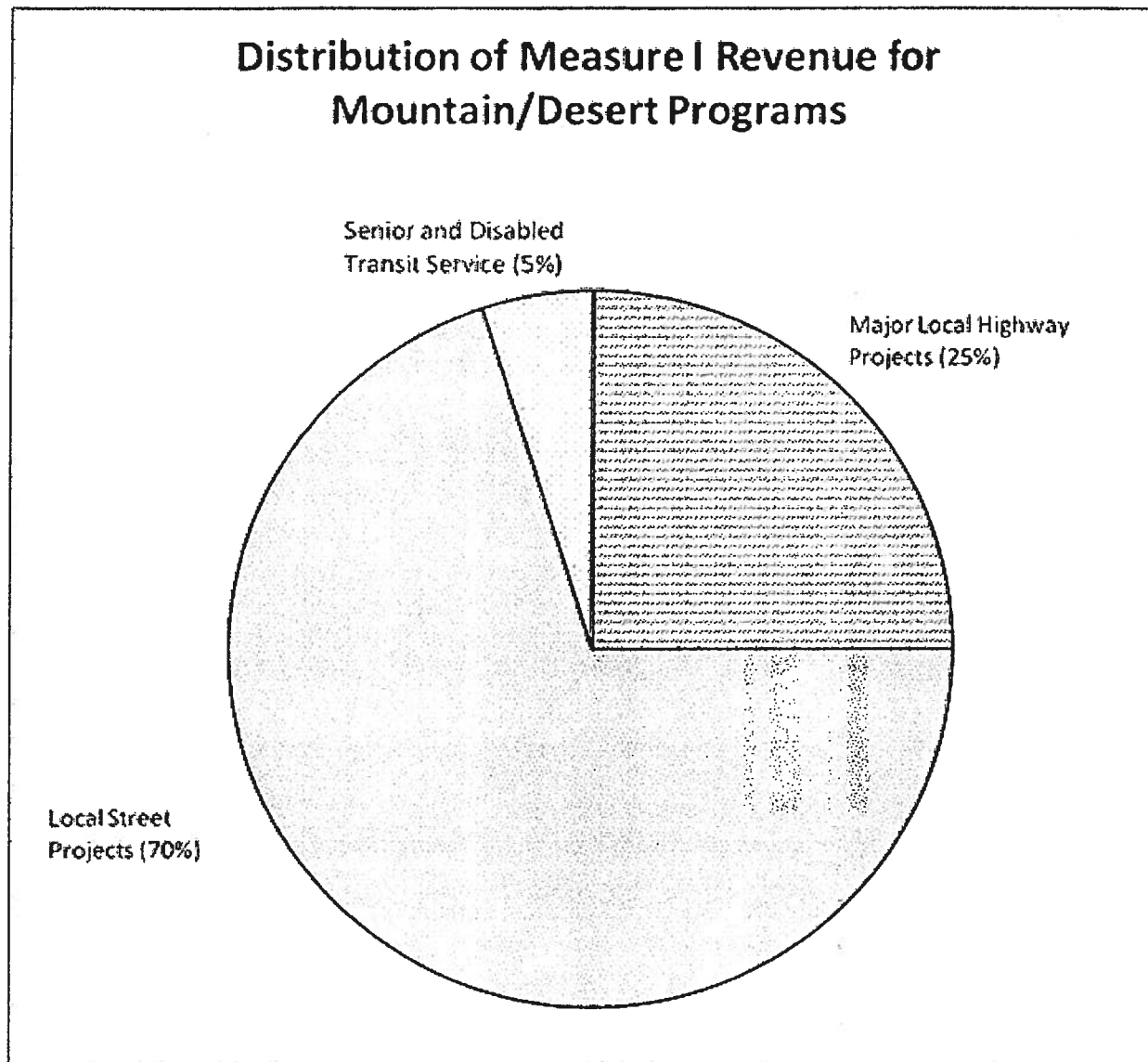


The following Expenditure Plan requirements apply to each of the Mountain/Desert Subareas

- Local Street Program
  - 70% of revenue collected within each subarea shall be apportioned for Local Street Projects within each subarea. 2% of revenue collected within each subarea shall be reserved in a special account to be expended on Project Development and Traffic Management Systems.
  - After reservation of 2% collected in each subarea for Project Development and Traffic Management Systems, the remaining amount of funds shall be allocated to local jurisdictions based on population (50 percent) and tax generation (50 percent).
  - Local street projects are defined as local street and road construction, repair, maintenance and other eligible local transportation priorities. Expenditure of funds shall be based on a Five Year Plan adopted annually by the governing body of each jurisdiction. Funds are passed by SANBAG directly through to the local jurisdictions.
- Major Local Highway Program
  - 25% of revenue collected within each subarea shall be reserved in a special account to be expended on Major Local Highway Projects of benefit to the subarea.
  - Major Local Highway Projects are defined as major streets and highways serving as primary routes of travel within the subarea, which may include State highways and freeways, where appropriate. Major Local Highway Projects funds can be utilized to leverage other state and federal funds for transportation projects and to perform advance planning/project reports.
- Senior and Disabled Transit Program
  - 5% of revenue collected within each subarea shall be reserved in an account for Senior and Disabled Transit Service. Senior and Disabled Transit funding is defined as contributions to transit operators for fare subsidies for senior citizens and persons with disabilities or enhancements to transit service provided to seniors and persons with disabilities.
  - In the Victor Valley subarea, the percentage for Senior and Disabled Transit Service shall increase by .5% in 2015 with additional increases of .5% every five years thereafter to a maximum of 7.5%.
  - In the North Desert, Colorado River, Morongo Basin, and Mountain Subareas, local representatives may provide additional funding beyond 5% upon a finding that such increase is required to address unmet transit needs of senior and disabled transit services. All increases above the 5% initial revenue collected for Senior and Disabled Transit Service shall come from the general Local Street Projects category of the subarea.
- SANBAG's Mountain-Desert Committee shall remain in effect and provide oversight to implementation of the Mountain/Desert Expenditure Plan.



The pie chart below summarizes the percentage distribution for each of the Mountain/Desert subarea programs.



## 2.2. Measure I Revenue Estimates

### 2.2.1. Background

The November 2004 Expenditure Plan for Measure I 2010-2040 estimated that \$6 billion would be generated by the half-cent sales tax over 30 years. Estimates of revenue for each subarea and program were derived from this overall revenue forecast. Estimates were in 2004 dollars and stated to be not binding or controlling. The expectation was that the revenue estimates would be periodically updated.

In April 2006, Dr. John Husing prepared a revised Measure I revenue forecast of \$8.35 billion in 2005 dollars. The upward revision to the revenue forecast was developed by revising several key assumptions that had previously been used during the preparation of the original Expenditure Plan. At its August 2006 meeting, the SANBAG Board adopted a slightly more conservative revenue estimate of \$8.0 billion for purposes of initiating work on the Measure I 2010-2040 Strategic Plan.

Modifications to the revenue assumptions by Dr. Husing in early 2008 lowered the 30-year non-inflated Measure I revenue estimates to \$7.25 billion in 2008 dollars. The SANBAG Board approved the estimates for use in the Strategic Plan at its April 2008 meeting. Although the economy in early 2008 appears to be on a path to a steeper decline than may have been projected by Dr. Husing in early 2008, the Strategic Plan has been based on the \$7.25 billion estimate of 30-year revenue countywide. The Strategic Plan assumptions will be revisited periodically, and the current estimate has proved to be sufficient to help scale each of the programs to the appropriate level.

#### 2.2.1 Measure I Subarea Revenue Estimates

The Measure I revenue forecast prepared by Dr. Husing was at the countywide level. Following the approval of the \$8 billion revenue forecast for Measure I 2010-2040, SANBAG staff began to develop subarea revenue estimates for strategic planning purposes. The challenge involved developing a methodology for disaggregating Measure I revenue to subarea levels in a way that reflects projected growth patterns.

Each Measure I subarea receives its funds based on a return-to-source calculation. SANBAG staff has information for the current subarea revenue distribution; however, each of the Measure I subareas will continue to grow at differential rates. For instance, the Victor Valley, with an abundance of vacant land and a developing retail sector, will continue to grow at a faster rate than the San Bernardino Valley, which is nearing buildout in many areas. A methodology was approved by the SANBAG Board in January 2007 that considered both historical per capita revenue growth and population growth.

Currently, San Bernardino Valley receives approximately 80.3% of the Measure I revenue and the Victor Valley subarea currently receives approximately 10.3%. The Valley generates the bulk of the revenue because of the large population and the more mature retail sector, when compared to the other Measure I subareas. Over the 30-year life of the Measure, however, the relative percent share for the San Bernardino Valley subarea is projected to be 75.5% and the relative share for the Victor Valley is projected as 14.9%. The change in the percent share of Measure I is the product of the faster growing communities, the expansion of retail opportunities and retail capture rate of the Victor Valley during the next 30 years. The final prediction of Measure I subarea shares approved for strategic planning purposes by the SANBAG Board is shown in Figure Table 2-1.

It is important to note that both the countywide revenue forecast and the forecast distribution to subareas are projections that extend 30 years into the future. The forecasts have been generated

to assist in scaling the programs and projected expenditures to these expectations of revenue. As stated in the Measure I ordinance, the revenue estimates are not binding or controlling. They are a planning tool, and the actual distribution of revenue will occur according to the specifications in the ordinance.

The projected subarea shares were based on annual estimates of revenue, summed over the 30-year life of the Measure. The annual estimates have been used to conduct cash-flow analyses for several of the programs. The annual revenue stream is important in understanding the extent to which early project delivery may be possible through bonding against the Measure I revenue stream. Additional information on revenue projections is provided in the sections discussing individual programs.

**Table 2-1**

**Projected Subarea Shares of Measure I 2010-2040**

SB Valley	Col. River	Mor. Basin	Mountains	No. Desert	V. Valley
75.6%	0.14%	2.4%	2.1%	2.1%	14.9%

Note: The Cajon Pass expenditure plan is projected to receive approximately 2.8%, separately from the above.

### 2.3. Development Mitigation Program Requirements

#### 2.3.1. Background

The Development Mitigation Program was initiated in response to specific language that was included in the Measure I 2010-2040 Ordinance. The development contribution requirements of Measure I 2010-2040 are included in Section VIII of the ordinance, which was referenced in Section 2.1.3.

The SANBAG Development Mitigation Program was approved by SANBAG, acting as the San Bernardino County Congestion Management Agency (CMA), on October 5, 2005 and revised based on amendments approved by the SANBAG Board on July 5, 2006, October 4, 2006, November 1, 2006, January 10, 2007, March 7, 2007 and November 7, 2007. The Development Mitigation Program is comprised of three documents, all of which are included as components of the San Bernardino County Congestion Management Program — Chapter 4 of the CMP (“Land Use/Transportation Analysis Program”), Appendix K of the CMP (“Development Mitigation Nexus Study”) and Appendix J of the CMP (Development Mitigation Program Implementation Language).

### 2.3.2. Urban and Rural Development Mitigation Requirements

The San Bernardino County CMP implements the Land Use/Transportation Analysis Program and development mitigation requirements with two distinct approaches, depending on geographic location within the County. The first approach addresses the urbanized cities and associated spheres of influence in the San Bernardino Valley and Victor Valley. The second approach applies to all other areas of the County. These two approaches are summarized below:

1. For San Bernardino Valley and Victor Valley cities and sphere areas: local jurisdictions implement development mitigation programs that generate development contributions for regional transportation improvements equal to or greater than fair share contributions determined through the SANBAG Development Mitigation Nexus Study (Appendix K of the CMP). Regional transportation facilities addressed by the Nexus Study include freeway interchanges, railroad grade separations, and regional arterial highways on the Nexus Study Network. Local jurisdiction development mitigation programs must comply with the implementation requirements established in Appendix J of the CMP. As of January 2007, each local jurisdiction adopted a compliant development mitigation program based on the requirements established by the SANBAG Development Mitigation Program. The local jurisdictions required to participate in the Development Mitigation Program are: Adelanto, Apple Valley, Chino, Chino Hills, Colton, Fontana, Grand Terrace, Hesperia, Highland, Loma Linda, Montclair, Ontario, Rancho Cucamonga, Redlands, Rialto, San Bernardino, Upland, Victorville, Yucaipa and the County of San Bernardino for spheres of influence. The development contributions are collected and allocated by local jurisdictions based on policies included in the Valley Freeway Interchange, Valley Major Street and Victor Valley Major Local Highway Programs contained in this strategic plan. Development contributions are not held by SANBAG.
2. For areas outside the San Bernardino Valley and Victor Valley cities and spheres: local jurisdictions must prepare Traffic Impact Analysis (TIA) reports for proposed development projects exceeding specified thresholds of trip generation. This is a continuation of a requirement established when the CMP was originally approved by the SANBAG Board in 1992. TIA reports must comply with requirements contained in Appendix C of the CMP. Local jurisdictions required to participate in the TIA program are: Barstow, Big Bear Lake, Needles, Twentynine Palms, Yucca Valley and other unincorporated areas in the Mountain/Desert subareas.

At their discretion, jurisdictions outside the urbanized Valley and Victor Valley may adopt Approach 1, in coordination with and subject to the approval of the SANBAG Board. However, an amendment to the Nexus Study is required for this to occur. Estimates of revenue that may be generated by the development mitigation program are referenced in the Financial Analysis sections of this Strategic Plan for the relevant Valley and Victor Valley programs. Appendices J and K of the CMP should be referenced for policies governing structure of the development mitigation program and its associated policies.

The 2007 update of the Nexus Study estimates that \$1.2 billion in development contributions in the San Bernardino Valley could be available to interchanges, rail/highway grade separations, and arterial projects on the regional network to supplement Measure I resources. The Nexus Study estimates that approximately \$460 million in development contributions could be available for such projects in the Victor Valley. Most jurisdictions have additional development-based fees and mitigation for local street projects that are not part of the regional network. Development contributions will likely be part of the funding picture for other Mountain/Desert subareas as well, but these will occur on a project-by-project basis in accordance with site-specific traffic studies and mitigation requirements.

#### 2.4. Other Sources of Revenue

The purpose of this section is to provide an overview of state and federal funding for transportation, as related to the delivery of Measure I projects. A basic understanding of state and federal funding processes and trends is important to be able to establish sound policy direction. Additional information on state and federal funding programs is available on the SANBAG website.

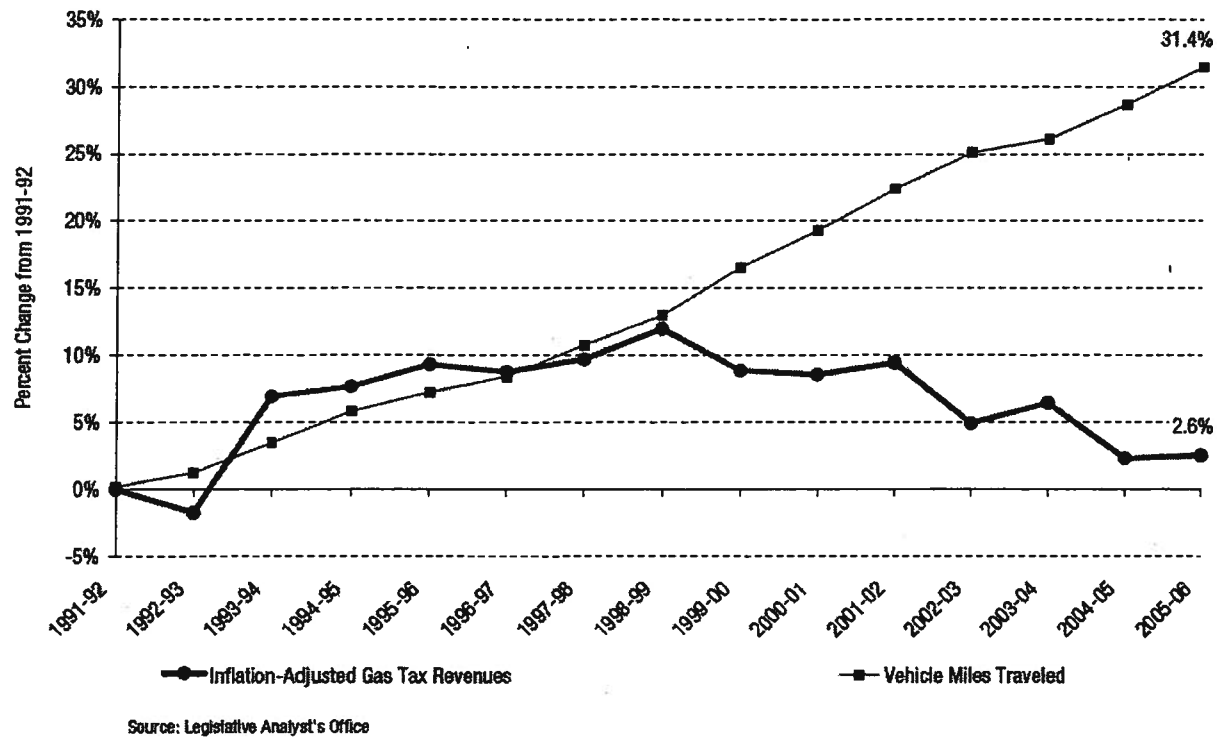
State and federal funding continues to be an important component of project delivery in the Measure I Expenditure Plan. However, the availability of state and federal funding has been steadily declining over the past 20 years. Through the mid-1990s in California, state and federal transportation revenues accounted for almost 75% of total transportation funding, and local agencies contributed approximately 25%. The local share is now approximately 51%, only a little over 10 years later. California has not raised its fuel tax since 1990, and virtually all of the gas tax available to the state is being used for maintenance of the existing system. Figure 2-2 shows a comparison of the increase in State gas tax revenue, on an inflation-adjusted basis, with the increase in travel within California in vehicle miles.

Additionally, the federal highway trust fund is in serious trouble, with indications that the fund will be completely exhausted in late summer 2009. It would have been exhausted in Fall 2008, were it not for an emergency infusion of \$8 billion by Congress. An effort is being made in Congress to address the problem in advance of the reauthorization of the Federal Transportation Act, but it is a very difficult issue, considering the unpopular prospect of an increase to the federal gas tax.

Absent local option sales tax measures, few resources would be available for expansion of the transportation system in California. In total, as of 2007, 19 counties in California have adopted local option sales tax measures to fund transportation improvements. San Bernardino County's local option sales tax, Measure I, was initially approved in 1989 and reauthorized in 2004. Revenue from the initial Measure is projected to total \$1.8 billion. Were it not for Measure I, the substantial improvements to the regional highway system would not have been possible.

**Figure 2-2**

**Increase in Inflation-Adjusted State Gas Tax Revenue vs. Vehicle Miles of Travel**



The continuity and sustainability of state and federal funding is uncertain, at best. It is against this backdrop that financial planning for the Measure I 2010-2040 Strategic Plan has been conducted. Appendix B provides a brief overview of the sources and uses of State and federal transportation funding as they are known at this time.

## 2.5. Strategic Plan Updates and Amendments

This Measure I 2010-2040 Strategic Plan is intended to be updated periodically to reflect changes in project costs, revenues, economic conditions, and project priorities that will undoubtedly occur over the 30-year life of the Measure. Section XIV (1) of the San Bernardino County Transportation Authority Ordinance No. 04-01 states, "Beginning in 2015, and at least every ten years thereafter, the Authority shall review, and where necessary, propose revision to the Expenditure Plan." It is expected that Expenditure Plan revisions such as those contemplated by Ordinance 04-01 would trigger reconsideration of the Strategic Plan as well. However, changes in Strategic Plan policy to reflect marked changes in fiscal conditions and transportation priorities can be considered at any time deemed appropriate by a majority of the SANBAG Board of Directors.

AB	Assembly Bill
ACE	Alameda Corridor East
ACT	Association for Commuter Transportation
ADA	Americans with Disabilities Act
APTA	American Public Transportation Association
AQMP	Air Quality Management Plan
ATMIS	Advanced Transportation Management Information Systems
BAT	Barstow Area Transit
CAC	Call Answering Center
CALACT	California Association for Coordination Transportation
CALCOG	California Association of Councils of Governments
CALSAFE	California Committee for Service Authorities for Freeway Emergencies
CALTRANS	California Department of Transportation
CARB	California Air Resources Board
CEQA	California Environmental Quality Act
CHP	California Highway Patrol
CMAQ	Congestion Mitigation and Air Quality
CMP	Congestion Management Program
CNG	Compressed Natural Gas
COG	Council of Governments
CSAC	California State Association of Counties
CTA	California Transit Association
CTAA	Community Transportation Association of America
CTC	California Transportation Commission
CTC	County Transportation Commission
CTP	Comprehensive Transportation Plan
DMO	Data Management Office
DOT	Department of Transportation
E&H	Elderly and Handicapped
EIR	Environmental Impact Report
EIS	Environmental Impact Statement
EPA	United States Environmental Protection Agency
ETC	Employee Transportation Coordinator
FEIS	Final Environmental Impact Statement
FHWA	Federal Highway Administration
FSP	Freeway Service Patrol
FTA	Federal Transit Administration
FTIP	Federal Transportation Improvement Program
GFOA	Government Finance Officers Association
GIS	Geographic Information Systems
HOV	High-Occupancy Vehicle
ICMA	International City/County Management Association
ICTC	Interstate Clean Transportation Corridor
IEEP	Inland Empire Economic Partnership
ISTEA	Intermodal Surface Transportation Efficiency Act of 1991
IIP/ITIP	Interregional Transportation Improvement Program
ITS	Intelligent Transportation Systems
IVDA	Inland Valley Development Agency
JARC	Job Access Reverse Commute
LACMTA	Los Angeles County Metropolitan Transportation Authority
LNG	Liquefied Natural Gas
LTF	Local Transportation Funds
MAGLEV	Magnetic Levitation
MARTA	Mountain Area Regional Transportation Authority
MBTA	Morongo Basin Transit Authority
MDAB	Mojave Desert Air Basin
MDAQMD	Mojave Desert Air Quality Management District
MIS	Major Investment Study
MOU	Memorandum of Understanding

MPO	Metropolitan Planning Organization
MSRC	Mobile Source Air Pollution Reduction Review Committee
MTP	Metropolitan Transportation Plan
NAT	Needles Area Transit
OA	Obligation Authority
OCTA	Orange County Transportation Authority
OWP	Overall Work Program
PA&ED	Project Approval and Environmental Document
PASTACC	Public and Specialized Transportation Advisory and Coordinating Council
PDT	Project Development Team
PPM	Planning, Programming and Monitoring Funds
PSR	Project Study Report
PTA	Public Transportation Account
PVEA	Petroleum Violation Escrow Account
RCTC	Riverside County Transportation Commission
RDA	Redevelopment Agency
RFP	Request for Proposal
RIP	Regional Improvement Program
ROD	Record of Decision
RTAC	Regional Transportation Agencies' Coalition
RTIP	Regional Transportation Improvement Program
RTP	Regional Transportation Plan
RTPA	Regional Transportation Planning Agencies
SB	Senate Bill
SAFE	Service Authority for Freeway Emergencies
SANBAG	San Bernardino Associated Governments
SCAB	South Coast Air Basin
SCAG	Southern California Association of Governments
SCAQMD	South Coast Air Quality Management District
SCRRA	Southern California Regional Rail Authority
SED	Socioeconomic Data
SHA	State Highway Account
SHOPP	State Highway Operations and Protection Program
SOV	Single-Occupant Vehicle
SRTP	Short Range Transit Plan
STAF	State Transit Assistance Funds
STIP	State Transportation Improvement Program
STP	Surface Transportation Program
TAC	Technical Advisory Committee
TCM	Transportation Control Measure
TCRP	Traffic Congestion Relief Program
TDA	Transportation Development Act
TEA	Transportation Enhancement Activities
TEA-21	Transportation Equity Act for the 21 <sup>st</sup> Century
TIA	Traffic Impact Analysis
TMC	Transportation Management Center
TMEE	Traffic Management and Environmental Enhancement
TOC	Traffic Operations Center
TOPRS	Transit Operator Performance Reporting System
TSM	Transportation Systems Management
USFWS	United States Fish and Wildlife Service
UZAs	Urbanized Areas
VCTC	Ventura County Transportation Commission
VVTA	Victor Valley Transit Authority
WRCOG	Western Riverside Council of Governments



# ***San Bernardino Associated Governments***



## **MISSION STATEMENT**

To enhance the quality of life for all residents, San Bernardino Associated Governments (SANBAG) will:

- Improve cooperative regional planning
- Develop an accessible, efficient, multi-modal transportation system
- Strengthen economic development efforts
- Exert leadership in creative problem solving

To successfully accomplish this mission, SANBAG will foster enhanced relationships among all of its stakeholders while adding to the value of local governments.

Approved June 2, 1993  
Reaffirmed March 6, 1996